

ACN

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

**Monitoring of National Actions to Implement Recommendations Endorsed During the Reviews
of Legal and Institutional Frameworks for the Fight against Corruption**

ARMENIA

MONITORING REPORT

Adopted at the 6th Monitoring Meeting of the Istanbul Anti-Corruption Action Plan
on 13 December 2006 at the OECD Headquarters in Paris

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GLOSSARY

ACN	- Anti-Corruption Network for Eastern Europe and Central Asia (also known as Anti-Corruption Network for Transition Economies)
ARM	- Armenian Dram (1 USD = 385)
CPI	- Corruption Perception Index (by Transparency International)
FIU	- Financial Intelligence Unit
GDP	- Gross Domestic Product
NGO	- Non Governmental Organisation
OECD	- Organisation for Economic Co-operation and Development
OSCE	- Organization for Security and Cooperation in Europe
PEP	- Politically Exposed Persons

BACKGROUND

This **report** provides information about measures taken by Armenia to implement the recommendations received in June 2004 under the Istanbul Anti-Corruption Action Plan. The report was prepared on the basis of the answers to the Questionnaire provided by Armenia on 22 August 2006 and the information gathered during the on-site visit in September 2006 and immediately after. The report is structured along the June 2004 recommendations. For each recommendation, summary of measures, analysis and rating of compliance is given in order to reflect the progress achieved by Armenia. The report is structured in three parts:

- National Anti-Corruption Policy, Institutions and Enforcement,
- Legislation and criminalisation of corruption and the related money-laundering offence,
- Transparency of the Civil Service.

The report was prepared by the team of examiners and edited by the OECD Secretariat.

The **review of Armenia** took place at the 2nd Istanbul Action Plan Review meeting on 16-18 June 2004 in Paris, at the OECD headquarters. The review was based on the self-assessment report presented by Armenia. An expert team prepared an assessment and recommendations. Recommendations were discussed and endorsed by the meeting.

The **on-site visit** to Armenia was organised on 25-29 September 2006. Its goal was to assess the actions taken to implement the recommendations endorsed in June 2004. Armenia filed out a preparatory questionnaire in August 2006; after the mission Armenia provided additional information.

The **team of examiners** was led by Daniel Thelesklaf (Switzerland), Financial Integrity Network, and comprised Inese Gaika, Head, International Relations Department, KNAB, Latvia; Nick Koumjan, American Bar Association, USA; Faina Yurkina, Consultant of the Department of State Regulation of Economy, Ministry for Economic Development and Trade of the Russian Federation; and Aibek Omokeyev, Head, Department of Monitoring and Estimation, Anti-Corruption Agency, Kyrgyz Republic. The OECD Secretariat was represented by Olga Savran, ACN manager, Anti-Corruption Division.

The team of examiners had **meetings** with several government and public institutions involved in the fight against corruption. Examiners also met with non-governmental organisations and business representatives with assistance of the Transparency International Armenia. Finally, examiners participated to a panel with foreign missions and representatives of international organisations and international financial institutions, which was hosted by OSCE (a list of meetings is set out in Annex I).

Box 1: The Istanbul Anti-Corruption Action Plan

The Anti-Corruption Action Plan for Azerbaijan, Armenia, Georgia, Kazakhstan, the Kyrgyz Republic, the Russian Federation, Tajikistan and Ukraine was endorsed in the framework of the Anti-Corruption Network (ACN) in September 2003, in Istanbul. The ACN Secretariat, based at the OECD Anti-Corruption Division, provides support for the implementation of the Action Plan. An Advisory Group provides guidance on the implementation of the Action Plan.

The implementation of the Istanbul Action Plan includes several phases: review of legal and institutional framework for fighting corruption; implementation of the recommendations endorsed during the reviews; and monitoring progress in implementing the recommendations.

In September 2003 the Advisory Group endorsed the Terms of Reference for the reviews of legal and institutional frameworks for fighting corruption in the Action Plan countries based on self-assessments reports prepared by their governments. The reviews of Armenia, Azerbaijan, Georgia, Kazakhstan, the Kyrgyz Republic, Tajikistan and Ukraine have been completed in 2004-2005. The review of the Russian Federation has not been completed yet. The recommendations are made public.

In May 2005 the Advisory Group endorsed the Terms of Reference for the monitoring of implementation of recommendations. The objective of the monitoring is to assess progress achieved by each country in implementing its recommendations. It does not aim to amend endorsed recommendations or to formulate additional ones, but to assess how the measures taken by the country comply with the recommendations. The monitoring consists of: (i) regular *progress updates* by countries; and (ii) *country examinations* by peers. In the framework of *progress updates*, countries are invited to submit their written updates about the national actions to implement the recommendations, which were taken since the previous meeting of the Istanbul Action Plan, approximately twice a year.

In the framework of *country examinations*, which are organised at least once for each country, the governments are invited to provide answers to a detailed questionnaire. A team of monitoring experts from other ACN countries visits the examined country and holds meetings with the public authorities involved in the fight against corruption, civil society and business representatives, foreign and international missions based in the countries, in order to form an objective opinion about progress made. The team of experts prepares its draft monitoring report, including ratings for each recommendation. The draft report is provided to the monitored country for comments. Next draft, which takes account of these comments, is presented to the meeting of the Istanbul Action Plan for discussion and adoption. Upon the adoptions monitoring reports are made public.

First round of *country examinations* is under way. It has examined Tajikistan, Georgia and Azerbaijan at the meeting of the Istanbul Action Plan in June 2006. The second round examines Ukraine and Armenia, aiming to adopt monitoring reports for these countries in December 2006.

For more information, please consult the following websites: www.oecd.org/corruption/acn.

MAIN FINDINGS

National Anti-Corruption Policy, Institutions and Enforcement

Armenia has succeeded in making operational two dedicated anti-corruption bodies – the Anti-Corruption Council and the Anti-Corruption Monitoring Commission. Overall, these two bodies contributed to coordinate the work on the anti-corruption strategy of Armenia adopted in 2003, which was mainly focused on legal changes, and which is now considered as implemented. Since their creation in 2004 both bodies are holding meetings with certain regularity and both involve different branches of power, relevant public institutions and civil society organisations. Further efforts are needed to ensure more visible results of the work carried out by the Council and the Commission. When a new anti-corruption strategy is adopted, it may require a revision of the current institutional setting in order to focus at the implementation measures.

The specialised Anti-Corruption Department at the Prosecution Service coordinates the work of investigatory bodies, including through its oversight and joint investigation teams; some corruption cases are investigated by the Department. However, the number of convictions for corruption and corruption related offences is still very low, especially for high-ranking officials. In order to strengthen enforcement of corruption laws, there is need to improve operational cooperation among different law enforcement bodies and further focus efforts to investigate and prosecute corruption offences. Law enforcement, courts and other public administration bodies should further cooperate to ensure more comprehensive statistical monitoring. Various training activities have been carried out in the recent years by the Police, Prosecution Service and for the judges about corruption and ethics; these efforts should be continued, including joint training for law-enforcement bodies involved in the fight against corruption.

Although different anti-corruption awareness raising events are organised by civil society and international organisations, it is also important that the government takes the initiative to raise public awareness of corruption costs and demonstrate its willingness to fight corruption in Armenia.

Legislation and criminalisation of corruption

Armenia ratified the UN Convention against Corruption in October 2006 and continued to make progress to bring its criminal laws in conformity with international commitments and standards. Since the 2004 review, bribery laws have been extended to foreign officials, controls of money laundering have been strengthened and national prosecutors and courts have been given greater authority to cooperate with requests for international criminal law assistance from countries with which Armenia has no mutual law enforcement assistance agreement. Armenian law provides a broad definition of public officials and active and passive bribery are criminalized. Very recent legislative changes now define bribery to include the transfer of non-material advantages to a public official, and require mandatory confiscation of corruption proceeds in most corruption cases including when these proceeds have been converted to assets of equivalent value or transferred to third persons.

However, a number of gaps remain: trading in influence is not yet criminalised; clear and transparent criteria for lifting immunities of some categories of public officials from criminal prosecution are yet to be developed; and responsibility of legal persons for corruption has not yet been introduced in the Armenian legal system.

Transparency of the Civil Service and Financial Control Issues

The Government of Armenia has achieved a certain measure of success in ensuring transparency of the civil service. A new sophisticated system for the selection of candidates to the posts in civil service has been put in place, which involves mandatory testing for all applicants. The new system is used for new applicants in all public institutions except for the Office of the Prosecutor General and the Chamber of Control. At the same time, the opportunity for discretionary decision-making is still broad, in particular concerning the final decision, which is still made by the recruiting agency.

Selected public institutions have developed their own Codes of Ethics and established internal disciplinary committees. Meanwhile the uniformed Code of Ethics is yet to be developed; sanctions for non-compliance and definition of conflict of interest need to be further clarified in relevant legislation. Further efforts are needed to provide training and practical guidelines on ethical behaviour. A mechanism to monitor the implementation of regulation about gifts for public officials is still lacking. There is no mechanism for protection of the officials of government bodies against disciplinary penalties and harassment for reporting acts of corruption to law-enforcement or prosecution bodies.

Since 2001, there is a legal requirement for the public officials and their family members to declare their incomes. However, the system appears a mere formality, as there is no mechanism to verify declared information; the declared information is not fully accessible to the public, and is not used by law-enforcement bodies for their investigations of corruption related offences. The new Law on Declaration of Property and Income by Physical persons has been adopted; when it comes into force it will introduce, in 2008, a new system of asset declarations.

On 1 January 2005, the Law “On Procurement” entered into force in Armenia, aimed at ensuring transparency and openness of the public procurement process. There is significant progress concerning the access to information about the announced bids and the transparency of the bidding system; but concerns remain about the ability of the Ministry of Finance to ensure sufficient controls of the tender process to detect possible abuses.

In 2005, in accordance with the Law “On the Fight against the Legalisation of Crime Proceeds and the Financing of Terrorism,” a Financial Monitoring Centre has been set up within the structure of the Central Bank, which is the financial intelligence unit. While the establishment of a FIU is highly welcome, there are still some shortcomings in the Anti Money Laundering Law that should be addressed soon.

The Law “On Freedom of Information” was not supplemented by the necessary regulations in order to ensure a more effective access to information. The Code on Administrative Violations and Criminal Code envisage sanctions for providing unreliable and untimely information. However, in practice actual access to information remains problematic, especially at the local level is particularly difficult.

There is some progress in the development of the system of financial control and auditing. The system of internal audit in public institutions is currently being developed. The draft law on Audit Chamber aims to ensure the independence of this body. However, coordination and exchange of information among financial control and, audit institutions and law-enforcement bodies remains weak.

INTRODUCTION



Economic and social situation¹

Armenia, a landlocked mountainous country in the Southern Caucasus, covers an area of 29,800 square kilometres and has a population of 3.2 million. It shares borders with Turkey to the west, Georgia to the north, Azerbaijan to the west and Iran to the south.

Armenia's 2005 GDP is 4.9 billion USD (USD 1,514 per capita) and the economy grew at over 10% annual rates in 2004 and 2005. Before independence, Armenia's economy was largely industrial – chemicals, electronics, machinery, processed food, synthetic rubber, and textile – and highly dependent on outside resources. Like other newly independent states of the former Soviet Union, Armenia's economy suffers from the legacy of a centrally planned economy and the breakdown of former Soviet trading patterns.

Armenia has a very large Diaspora (8 million by some estimates, greatly exceeding the 3 million population of Armenia itself), with communities existing across the globe, including France, Russia, Iran, Lebanon, and the USA.

Political structure

Armenia declared its independence from the former Soviet Union in 1991. Although the Government of Armenia consists of three branches, the country has a strong presidential system. The unicameral Parliament consists of 131 deputies who are elected for the period of four years. Political parties represented in the National Assembly: Republican Party of Armenia, Armenian Revolutionary Federation

¹ Sources: EBRD Transition Report 2005, Transparency International Corruption perception Indices US Department of State Background Notes 06/2006

(ARF) Dashnaksutyun, Country of Law (Orinats Yerkir), People's Party of Armenia, National Accord Party, Republic Party, and United Labour Party. Other significant parties include: National Democratic Union, Constitutional Rights Union, Social Democratic Hnchakian Party, Armenian National Movement, Liberal Democratic Ramkavar Party, Self Determination Union, Communist Party, and the Christian Democratic Party. As a result of the May 2003 parliamentary elections, 95 seats of the 131 in the National Assembly (75 elected on a proportional basis and 56 on a district-by-district majority basis) went to generally pro-government parties or deputies. The Republican Party, ARF Dashnaksutyun Party, and Orinats Yerkir formed a coalition government. However, Orinats Yerkir pulled out of the loose governing coalition in May 2006, leaving a coalition consisting of the Republican and the ARF Dashnaksutyun parties, plus several unaffiliated deputies who vote with the government bloc. Opposition parties secured 26 seats during the 2003 election. The next Parliamentary election will take place in June 2007.

Armenia is a member of the United Nations, the OSCE, NATO's Partnership for Peace, the Euro-Atlantic Partnership, the World Health Organization, the World Trade Organisation, CFE Treaty member state, the European Bank for Reconstruction and Development, the Council of Europe, the Community of Democracies, the Asian Development Bank, the International Monetary Fund, and the World Bank.

Trends in corruption

Corruption in Armenia has been a significant obstacle to doing business since the country gained independence. Polls show that people in Armenia perceive corruption as particularly problematic when dealing with business licences, tax collection, and customs. Armenia's Transparency International CPI score remained unchanged (3.0 in 2003, 3.1 in 2004 and 2.9 in 2005). Armenia is on 88th rank of 159 countries. An anti-corruption strategy has been in effect since 2001, but implementation remains a challenge.

IMPLEMENTATION OF RECOMMENDATIONS

I) National Anti-Corruption Policy, Institutions and Enforcement

Recommendation 1

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

The Anti-Corruption Council and Anti-Corruption Monitoring Commission are the two main bodies established in Armenia in order to oversee the implementation of the Anti-corruption Strategy and the Action Plan adopted in 2003. The Anti-corruption Strategy and Action Plan focused primarily at legal reforms; the objectives of these policy documents are considered largely implemented by now. A discussion has started about the need to develop a new strategy, which will focus at the implementation issues. It was noted by some officials that when such new strategy is adopted, the new tasks may require changing the current mandate of the Council and of the Monitoring Commission, or may even call for a new institutional arrangement capable to support the implementation.

The Anti-corruption Council, which was set up according to the President Decree N° 100-N on 1 June 2004, has become operational and continues to function. The Council is not a permanent body, but it functions through regular meetings. The authorities of Armenia reported that in 2005-2006 it met once every 2 months. The Council had met twice in 2006 up to the time of the on-site visit. The Council is chaired by the Prime Minister and includes the Minister – Head of the Staff of the Government, the deputy speaker of the National Assembly, Minister of Justice, Assistant of the President, Chief Prosecutor and the Chairman of the Central Bank. The Council reports to the President about its activities.

The main objective of the Council is to coordinate anti-corruption measures implemented by various institutions. The authorities of Armenia believe that the Council successfully consolidated the efforts to fight corruption and practically implemented all the foreseen measures in the strategy. These consisted mostly of legal and institutional changes, for instance, adoption of about 50 laws related to corruption. Other sources stated that the Council has now altered its strategy to focus more on practical measures and ensure wider public awareness and involvement in the anti-corruption fight. Although there is some information about the Council and its activities posted on the government website (www.gov.am), the Council lacks visibility and does not provide sufficient and timely information on the results achieved by the Council.

The Anti-Corruption Monitoring Commission established by Decree of the Council on 2 July 2004 is also operational. Under the auspices of the Council, it aims to support the implementation of the strategy, study corruption risks in the national legislation, analyse international experience and monitor implementation of international obligations of Armenia related to the fight against corruption. The

Commission is headed by its Chair, who is a full time official employee. During 2004-2005 the Commission was chaired by an Advisor to the President, with single responsibility for anti-corruption issues. In 2006, this function was passed to an Assistant to the President, anti-corruption being one of several responsibilities. The members of the Anti-Corruption Monitoring Commission include representatives of the Government staff, fractions of the Parliament and non-governmental organisations. The Center for Regional Development/Transparency International Armenia has a permanent status in the Commission. Other NGOs are nominated by fractions of the Parliament for one year period through a rotation system. Altogether in 3 years 21 representatives of NGOs participated in the work of the Commission.

The Commission holds its own meetings. It also has established 12 working groups in different strategic areas, for example, education and public health. The information received about the regularity of the meetings varied. The authorities of Armenia informed that the Commission has to meet once a month and has met 8 times in 2005², the last meeting of the Commission was held on December 2005, due to the change of the Commission Chair. In the interim, working groups have met.

While both the Council and the Commission are operational, it is not possible to conclude at this stage that both bodies hold regular meetings and properly assess results of the measures taken. No specific measures were reported as to how the high moral and ethical standards of the members of both bodies were ensured. Armenia is encouraged to consider new ways to involve NGOs currently nominated by political parties. There were different opinions over the government's interest in involving NGOs in anti-corruption strategy and to take their proposals into account. For instance, one NGO withdraw from one of the working groups because it considered the work of the group not efficient; another NGO informed that the government is cooperative and supporting the efforts of the NGOs.

Armenia is largely compliant with this recommendation.

Recommendation 2

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

The authorities of Armenia reported that the Government together with the Prosecutor's Office, Police, the Ministry of Justice and the National Statistics Office developed the framework of statistical reporting consisting altogether of 59 corruption-related offences from the Criminal Code. On 8 July 2005 this methodology was adopted by the Monitoring Commission. According to the authorities of Armenia, there is now a system of regular reporting on these offences using the new methodology. The reports are centralised by the Police; information about the corruption-related offences is included in the reports published by the National Statistics Service that are also available on the website www.armstat.am.

² After the on-site visit, from October to December 2006 the Commission has met 3 times.

The Anti-Corruption Monitoring Commission at its meetings has been listening to statistical reports of several institutions, such as the State Tax Service, State Customs Committee and the National Security Service. The team of examiners was told that these reports were rather brief presentations.

The authorities of Armenia provided statistical data about corruption-related crimes taken place in Armenia in 2005 and limited data about 2004 (see in the annex). The GRECO Evaluation Report on Armenia published on 10 March 2006 included statistics received from Armenian authorities on the number of officials convicted of bribery and statistics on the number of prosecutions of “cases of corruption/corruption-related offences” in 2000-2002, for instance, 463 in 2002. The authorities of Armenia informed that 266 criminal cases on corruption-related offences were started in 2005 and 364 cases in 9 months of 2006.

The team of examiners commends Armenia for its efforts to improve and centralise the statistical monitoring on corruption related offences, including involvement of the Monitoring Commission. The team of examiners takes note of the statistics provided by the Armenian authorities. However, the overall impression was that in practice there is still a lack of comprehensive and accessible statistics about corruption offences in Armenia and that the current system of reporting does not provide detailed information about types and trends of corruption-related crimes, the level of public officials and public institutions involved to allow efficient comparison among the institutions and identify trends in corruption in Armenia. This system also does not include administrative violations committed by public officials. Further elaboration of the law-enforcement statistics is needed, together with analysis of such statistics over a time period, in order to support the development of anti-corruption measures in high risk areas.

Armenia is largely compliant with this recommendation.

Recommendation 3

Consolidate law enforcement efforts in the fight against corruption and ensure better cooperation, in particular with the newly established specialized department within the Prosecution Service. Further specialize anticorruption units within the Police and ensure functional links between specialised law enforcement bodies and the specialised prosecution department. Undertake steps to minimize possible improper influence of or interference into the work of law enforcement officials investigating corruption offences. Exchange of knowledge and information should be direct and confidential, the number of administrative decision makers (heads of different departments for example) should be minimized.

According to the information provided by the authorities of Armenia, the Decree Nr 25 issued on 25 April 2006 by the Prosecutor General of Armenia stipulates that consolidating the efforts of law enforcement institutions in Armenia is the responsibility of the Prosecution Service. The Article 2.1.3 provides that the Department of Anti-Corruption of the Prosecution Office is responsible for ensuring coordination among the Prosecution Office, Police, military police, the National Security Service, tax and customs services in the area of fight against corruption. In the area of corruption, this is the specific responsibility of the Anti-corruption Division of the Prosecution Service. The Division has 8 staff members. It is in charge of coordinating the investigation and prosecution of corruption offences and also of money-laundering offences. The Divisions investigates corruption cases; and prepares cases for the trial. The Criminal Procedure Code allows the use of joint investigation teams in serious cases and the Prosecution Service has organised such teams in several corruption investigations. Experts can be involved in such groups, but there is no permanent staff inside the Division with, for example, economic or accounting expertise. The Division reported that as of September, it had investigated or was investigating

11 cases of corruption, most of which involved allegations of abuse of power. No high level cases were reported.

In addition to Prosecution Service, corruption crimes are investigated by the Police and the National Security Service. The Police Department for the Fight against Corruption and other Economic Crime includes the Division for the Fight against Corruption. Altogether, there are 34 staff members at the Department. The National Security Service has parallel jurisdiction to investigate large-scale corruption crimes but there are no clear criteria as to when the service would handle an investigation as opposed to the police. A common database for Police and the National Security Service is to be created. There are common decisions taken by the Police, the National Security Service and the Prosecution Service.

The authorities of Armenia stressed that coordination among law enforcement institutions is ensured, but no new functional links were developed such as inter-institutional agreements or guidelines. The authorities believe that one of the problems is lack of willingness of the public to report corruption to law enforcement institutions and that it is generally difficult to detect and prove corruption.

The new Law on the Operational-Investigative Activities has been drafted and submitted to the Parliament. This Law should further clarify the tasks of different investigatory bodies and methods used in detecting crimes.

Concerning the safeguards to prevent improper influence and interference into the work of law enforcement officials investigating corruption offences, the authorities informed that the number of persons involved is limited to the law enforcement officer and the Prosecutor. No specific additional measures were reported.

The number of prosecutions, especially of large-scale bribery cases, remains very low.

Armenia is partially compliant with this recommendation

Recommendation 4

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

The authorities of Armenia have gained knowledge about a number of specialised anti-corruption institutions in other countries over the past two years. For example, an international expert was invited to share his experience working with Hong Kong's Independent Commission Against Corruption. Within the framework of the OSCE conference "Experience of national and international anti-corruption strategies" in November 2005 in Yerevan, the representatives of government bodies and NGOs presented anti-corruption models from Latvia and Singapore.

During the on-site visit, the team of examiners learned that there is discussion about possibly establishing a specialised, independent anti-corruption agency in Armenia (see Recommendation 1)

No specific studies, working groups or other specific measures were undertaken by the authorities of Armenia to analyse the experience in other countries more thoroughly and draw conclusions how it could be applied in Armenia.

Armenia is largely compliant with this recommendation.

Recommendation 5

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

A number of separate corruption-specific/ethics-related training activities for the law enforcement officials and judges were carried out in Armenia since June 2004. However, the team of examiners was unable to find out information about any joint corruption-specific training.

In 2004, the following training seminars were organised by the Training Centre of the Prosecution Service: “The Anti-Corruption Strategy Programme and the Action Plan and the Objectives of the Prosecutor’s Office”; “International Practice in the Fight against Corruption”; “Anti-Corruption Strategy and the National Legislation”. In 2005 these seminars were pursued addressing the following topics: “The methodology of examination of economic and official offences and the peculiarities of prosecution control”; “Legalisation of crime proceeds, nature of the elements of crime, peculiarities and the methodology of investigation”; “The criminal-legal characteristics of corruption, main ways of its manifestation and the methodology of the detection”. The authorities report that 89 employees participated in these seminars.

The Police Academy regularly provides training for police officers, including on bribery and money-laundering issues. Police officers participate to training on investigation for CIS countries organized by the United States in Egypt and OSCE training in Armenia. In addition, there are weekly meetings at the Police to discuss the ongoing investigations.

Judges are required to attend regular training at the School of Judges. The authorities reported that this training also addresses corruption-specific matters. There is also training on judicial ethics.

Although there were formally no joint training, authorities of Armenia informed that the Courts and the Prosecution Service exchange invitations to training. For instance, judges attended training organised by the Prosecution Service addressing economic crime, prosecutorial supervision, money laundering and also detection of corruption cases in 2005.

No further information on joint training for police, prosecutors and judges was provided.

Armenia is partially compliant with this recommendation.

Recommendation 6

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

Under the initiative of the Civil Service Council, the School of Public Administration developed a training programme on prevention of corruption in 2006. No other activity aimed at raising awareness on corruption was carried out by the authorities themselves. In the meantime, the authorities of Armenia supported awareness raising and training activities of NGOs and international organisations, including providing about 150 million ARM (about 398 thousand USD) in 2006 to grants for NGOs carrying out corruption-related awareness raising/other activities.

Various activities aimed at raising awareness about corruption were organised by NGOs. For instance, Transparency International Armenia has conducted 6 public sector announcement campaigns related to corruption, national posters competition “Arts against corruption”, anti-corruption awards, and public discussions about anti-corruption strategy in 5 regions of Armenia. The NGO Freedom of Information Center of Armenia organised a public campaign focused on access to information, developed an Internet data base of breaches of Freedom of Information Law at www.foi.am and gives annual awards on the system for providing information.

International organisations and foreign embassies in Armenia organised several activities to raise awareness about corruption. The OSCE and UNDP have both specific anti-corruption projects, which includes awareness campaigns. The OSCE project will continue in 2007. The UNDP plans to organise a campaign to encourage the government to be more serious about corruption. The UNDP has also provided training for investigation journalists on corruption cases and seeks to strengthen the role of civil society audits of specific sectors of public services, such as health and education. The Euroasia Foundation also conduct training for journalists and exchanges of experience related to corruption.

Armenia is partially compliant with this recommendation.

Recommendation 7

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

The Council of Europe Criminal Law Convention of Corruption and its Additional Protocol were ratified by the National Assembly of Armenia on 8 June 2004 by the Decrees N-105-3 and N-106-3. The Council of Europe Civil Law Convention on Corruption was ratified by the National Assembly on 8 December 2004 by the Decree #N-158-3.

The UN Convention on the Fight against Corruption (UNCAC) is in the process of ratification³. At the time of the on-site visit, the team of examiners was told that the ratification of the UNCAC is currently reviewed by the Committees of Foreign Affairs and Legal Affairs of the National Assembly and only one reading will be necessary to adopt it.

Armenia is fully compliant with this recommendation

II) Legislation and Criminalisation of Corruption and the Related Money-Laundering Offence

Recommendation 8

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

Several amendments have been made to the Armenian Criminal Code in an effort to strengthen the anti-corruption laws, implementing parts of Recommendation 8.

Articles 311 and 312 of the Criminal Code defining passive and active bribery were amended just before the monitoring meeting on 5 December 2006.⁴ The revised articles included expanded definitions of bribery to include the offer or receipt of not just money or property but also the transfer of “any other privilege.” Further, the amended Article 311 followed the recommendation in repealing the provision mentioned in the recommendation that permitted public officials to accept gifts of up to five times the minimum monthly salary.

The bribery statutes do not specifically cover the offer or promise of a bribe. However, authorities argue that offers or solicitations of a bribe which are not accepted could be punished as attempts under Article 34 of the Criminal Code. However, this was considered insufficient during the review of Armenia, as attempts cannot cover all elements of offer and promise of a briber.

There is no provision in the Armenian Criminal Code criminalizing trading-in-influence (trading-in-influence is the situation where a person seeks money or other advantage in return for improperly using their alleged influence over a public official). Armenian authorities have indicated a willingness to consider adding such a provision.

³ The UN Convention on the Fight against Corruption was ratified by the Decision N 303-3 of the National Assembly of Armenia on 25 October 2006.

⁴ Because this legislation had just been passed, the delegation explained that no English or Russian official translation was available. The descriptions of the articles contained in this report are based upon an unofficial translation provided by the delegation.

Armenia is partially compliant with this recommendation.

Recommendation 9

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

The statute of limitations regime has not been substantially changed. Under Article 75 of the Armenian Criminal Code the statute of limitations for a criminal offence is determined by looking at the maximum sentence for that offence under the Criminal Code. Since the recommendation, the penalties for corruption offences remain unchanged. Depending upon the presence of absence of aggravating factors, the statute of limitations for a public official taking a bribe (Article 311) ranges from 5 to 15 years, the statute of limitations for active bribery of a public official (Article 312) ranges from 5 to 10 years, and the limitation period for commercial bribery (Article 200 of the Criminal Code) ranges from 2 to 5 years. The running of the limitation period is suspended if the suspect avoids investigation or trial or if the suspect commits a new offence of medium or greater gravity. In June 2006 Article 75 was amended to provide that for continuing crimes the statute does not begin to run until the criminal conduct has ended.

Armenia is partially compliant with this recommendation.

Recommendation 10

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

Several categories of public officials benefit from immunity under Armenian law, including judges and members of the Constitutional Court, delegates of the National Assembly, candidates for the national assembly, candidates for local elections, and members of election commissions. Constitutional amendments approved in 2005 broadened the immunity accorded to the President and added immunity for the Ombudsman.

Armenian law is specific in identifying which body or institution has the right to lift immunity for specific officials. However, it is not clear what criteria these institutions will or should use in exercising this authority. For example, the constitution provides that only the President, acting on the recommendation of the Council of Justice, may lift the immunity of judges. However, it is unclear if the President is required to follow either a positive recommendation or if he is prevented from lifting immunity in the case there is a negative recommendation from the Council. Also troublesome, there are no rules stipulating the criteria either body shall use in deciding whether lifting immunity is appropriate. For example, criteria could be written indicating that immunity will be lifted as long as there is no indication that the charges are politically motivated or designed to pressure or retaliate against the officeholder for

their official actions, or a policy could be written stating that immunity will only be lifted when the alleged criminal conduct is unrelated to any exercise of powers related to the official's position.

Armenia is not compliant with this recommendation.

Recommendation 11

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

To date, Armenian law does not provide for criminal responsibility for legal persons. Authorities have indicated that a working group has been established and that plans are to develop a draft law establishing such responsibility in 2007.

Armenia is partially compliant with this recommendation.

Recommendation 12

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

Article 119, paragraph 4 of the Criminal Procedure Code provides that at the end of a case, money and valuables that had been obtained illegally shall be used to cover damages to the victim or forwarded to the state budget. However, the application of this section is limited to cases where the proceeds of corruption crimes have been seized as evidence for use during the proceedings.

Less than two weeks before the monitoring meeting, on 29 November 2006, Parliament passed legislation that included amendments to Article 55 of the Armenian Criminal Code.⁵ The revised article now provides that for grave and especially grave crimes (crimes carrying a maximum sentence of over 5 years) confiscation of property is mandatory if the property was directly or indirectly acquired as the result

⁵ Because this legislation had just been passed, the delegation explained that no English or Russian official translation was available. The description of the article contained in this report is based upon an unofficial translation provided by the delegation.

of criminal activity. The amended Article 55 also now provides for the confiscation of an equivalent value if the proceeds of the offence cannot be found or seized and that property may be confiscated if it has been transferred to third party, unless the third party was not aware or could not be aware of the criminal purpose or criminal origin of the property (which in practice will be difficult for the prosecution to rebut).

However, to date little actual confiscation has taken place.

Armenia is partially compliant with this recommendation.

Recommendation 13

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

The definition of “public officials” for purposes of Armenia’s criminal laws on bribery and corruption is quite broad and includes “persons performing the functions of a representative of the authorities, permanently, temporarily, or by special authorization; and persons, permanently, temporarily, or by special authorization, performing organizational, disciplinary and administrative functions in state bodies, local self-government bodies, organizations thereof, as well as, in the army of the Republic of Armenia, or other forces of the Republic of Armenia.” There are no reports of courts interpreting this definition to exclude any persons performing official duties in the executive, legislative or judicial branches of government. However, it is unclear whether this definition would cover legislators in the national or local assemblies.

Armenia is largely compliant with this recommendation.

Recommendation 14

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

In June 2006 the Criminal Code of Armenia was amended to include foreign officials. A new Paragraph 4 was added to Article 308 of the Criminal Code, providing:

“From the viewpoint of committing actions envisaged in articles 311, 312 and 313 of this code, the following persons are also considered as officials:

- 1) foreign nationals carrying out the functions of public official in accordance with the national legislation of the given country, as well as members of the legislative body or any representational body with administrative powers of the given foreign state;

- 2) Officials of international or supranational public organization or body,, or in cases envisaged by the statute of that organization or body, contracted employees or other persons, who carry out functions similar to the functions carried out by the mentioned officials or employees;
- 3) Members of the parliamentary assembly of an international or supranational organization, of which the Republic of Armenia is a member, or another body with similar functions;
- 4) Members or officials of an international court, the jurisdiction of which has been acknowledged by the Republic of Armenia, carrying out judiciary functions;
- 5) Members of jury in courts of foreign states.”

Section 2 of Paragraph 4 above previously limited the definition of foreign public officials of international or supranational organizations to those “of which the Republic of Armenia is a member,” but this unnecessary qualification was removed by the recent legislation passed on 5 December 2006.

Armenia is largely compliant with this recommendation.

Recommendation 15

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

Armenia is a state party to the European Convention on Mutual Legal Assistance in Criminal Matters; Additional Protocol to the European Convention on Mutual Legal Assistance in Criminal Matters, 1993 Minsk Convention on Legal Assistance and Cooperation in Civil, Family and Criminal Law Matters as well a number of bilateral agreements. Since the recommendations the Criminal Procedure Code of Armenia has been amended to strengthen the ability of Armenian authorities to cooperate with other countries courts and law enforcement. A new section of the Criminal Procedure Code, Part 54.1 has been added to provide for cooperation with countries even without an international agreement.

According to information provided by Armenian authorities, international legal assistance is functioning effectively in Armenia. The Armenian Prosecutor’s office sent 29 requests for legal assistance to foreign states in 2004 and 26 in 2005 The Prosecutors office statistics record 62 requests for assistance received from other states in 2004 and 160 in 2005. The Prosecutor’s office told the assessment team that it has acted upon all of these requests. Sources from other countries confirm that there is frequent dialog and requests for assistance from and to the Armenian authorities. However, no examples have been provided to the assessment team of requests for assistance involving corruption cases.

Armenia is largely compliant with this recommendation.

III) Transparency of the Civil Service

Recommendation 16

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

There are 7,136 civil servants in Armenia. At the time of the visit, their average salary was about 72 US dollars. According to the Armenian legislation, in addition to the civil servants, the public service includes the judiciary, the special services, Executive Bodies of Defence, National Security, Police, Tax, Customs, Emergencies, as well as Diplomatic and other Services envisaged by the laws.

Armenia has introduced a new system for recruitment in the civil service and all other public administration bodies, except the Prosecution Service and the Chamber of Control of the National Assembly. For the civil service, this recruitment system is managed by the Civil Service Council, but for others - their respective institutions. The system involves a comprehensive procedure of competitive selection with mandatory testing and an enrolment commission that selects candidates and recommends them to the head of the relevant institution who then decides on the winner. The system is currently applicable to all newly recruited civil servants and was also used in an attestation procedure for all existing public officials. No statistics were provided as to what extent this system was actually applied.

Except the Prosecution Service and the Chamber of Control, the enrolment commissions include a variety of specialists in this area, representatives of the government, academics and civil society. Meanwhile, for instance, in the Prosecutor General's Office, 11 out of the 13 commission members are employees of the Prosecutor General's Office.

While there has been some progress in implementing a fair and transparent recruitment procedure, the opportunity for discretionary decision-making is still rather broad; in particular what concerns the final decision, which is still made by the recruiting agency on the basis of the recommendation of the enrolment commission.

The authorities of Armenia informed that since 2005 they are implementing a programme "Modernisation of the Public Sector" that intends to develop a unified public sector with a common legal framework for all public administration bodies; the draft law on public services is envisaged in 2007.

Armenia is largely compliant with this recommendation.

Recommendation 17

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

According to the law On Civil Service and legislation regulating the activities of other public administration bodies in Armenia, all public institutions should adopt their codes of conduct/ethics rules. During the on-site visit information was provided that some public bodies, such as ministries of Justice, Labour, Health and Education, as well as the Prosecution Service, the Central Bank and the Parliament, do have codes of conduct. Authorities reported that code for judges is being drafted.

Although there is no uniform code of conduct for all public officials, authorities of Armenia confirmed that there is intention to introduce such code of professional conduct or ethics of all public officials. At this stage there is no single body exercising control over the activities of all public officials and observance of ethic norms or rules of conduct. There are no uniform mechanisms for settling conflicts of interest.

Since two years an Ethics Commission has been operational in the Council of the Court Chairman. It has found disciplinary liable persons in 16 cases, 1 concerning corruption. Among the possible sanctions which can be used by this Council are the reduction of salary and removal from a post.

Also, the State Tax Service reported that they have complaints review committee that meets weekly and had ten disciplinary cases.

NGOs reported that they can participate to ethics councils in Ministries, but no complaints were filed.

It is necessary to develop a system of pre-trial appeals and guidelines for the implementation and application of codes of conduct.

Armenia is partially compliant with this recommendation.

Recommendation 18

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

The rules of accepting gifts by public officials are regulated by the Order of the President of Armenia and the corresponding Decision of the Government. But there is no control over compliance, as there is no authorised body to enforce the order or decision and there is no monitoring of procedures. During the on-site visit, the team of examiners was informed that there are gift reporting rules for judges.

There is no clear definition of a conflict of interest, and no legally prescribed sanctions against perpetrators. There is no system to monitor the implementation of the conflict of interest regulations. This remains one of the most vulnerable aspects of the anticorruption system in Armenia.

Armenia is non compliant with this recommendation.

Recommendation 19

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

Since 2001, there is a legal requirement for public officials and the family members residing with them to declare their incomes to the State Tax Service.

The threshold income level before reporting has been increased since the review.

It appears, however, that submitting declarations of income of public officials is a mere formality. The declarations are not reviewed for truthfulness or compared to any other public data on officials property or asset holdings. The State Tax Service does not carry out such verifications and cross-checking because the declarations are not a valuable source of information for tax purposes. The information is not being analysed to detect possible illegal proceeds and is not referred to any government authorities for further use. There are both criminal and administrative sanctions for failure to submit a declaration such as monetary fine and removal from office. Only limited information can be made available to media and organisations upon request to the State Tax Service that then delivers a certificate with all information in the declaration of the given official, except his personal or other sensitive data. An NGO informed that it has requested and received such information, including on ministers and judges, and that it considers this information sufficient to assess financial situation of the relevant officials.

The authorities of Armenia informed that the Parliament adopted a new law Nr 164 On declaration of Property and Income of physical persons. It is currently planned to introduce this new system in 2008; it would include control of information stated in the declarations and sanctions. When this new system is introduced, it will eventually replace the current declarations of public officials.

Armenia is partially compliant with this recommendation.

Recommendation 20

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

Article 335 of the Criminal Code of the Republic of Armenia provides for criminal liability for those not reporting planned grave and particularly grave crimes about which they have definite information.

However, there is lack of a mechanism 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 makes this norm inefficient from the point of view of enhancing the obligation to report suspicions of corruption.

Armenia is non compliant with this recommendation.

Recommendation 21

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

On 1 January 2005, the Law on Public Procurement entered into force.

The organisation of tenders is the responsibility of the non-commercial organisation Public Procurement Agency; the control over the public procurement is ensured by the Department of Public Procurement and Internal Audit of the Ministry of Finance.

For procurement from 5-10 million AMD, it envisages publicizing the entire process, from the announcement of the tender through the completion of the project, in mass media and on the official site of the Ministry of Finance as well as an official procurement bulletin. For procurement from 1 to 5 million ARM (or 1 to 10 million ARM for public works) only mass media publication is envisaged.

The decision on the winner of the tender is made by a tendering commission, which is organised for every tender above 1 million AMD.

The improvements in the transparency and access to information to the bidding information constitute important progress on the recommendation. Meanwhile, the team of examiners got the impression that the Ministry of Finance does not have sufficient capacity and sometimes lacks the necessary powers to ensure sufficient control of the tender process in order to detect possible abuses.

Electronic bidding and purchasing is envisaged in 2008.

Armenia is largely compliant with this recommendation.

Recommendation 22

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

Armenia has made significant progress in developing its legal Anti Money-Laundering (AML) framework with the adoption of the AML Law in 2004. In early 2005, a Financial Intelligence Unit (the Financial Monitoring Service) has been established and has become operational as a department within the Central Bank of Armenia (CBA). It collects analyses and disseminates suspicious financial information. Corruption offences are regarded as predicate offences in the criminal money laundering offence.

Banks execute the large majority of financial transactions in Armenia; remittances from Armenian Diaspora play an important role.

Some important elements of the 2004 AML Law need to be amended and brought in line with the international standard. The revised Law should namely provide for the full range of customer due diligence (CDD) measures, and to provide for enhanced due diligence for higher risk customers or transactions, such as politically exposed persons (PEPs). The exception for certain transfers from the abroad (mainly Armenian Diaspora) (Article 6.3) that are by definition not to be treated as suspicious is not compatible with the international standard. There are plans to review the AML Law and an inter-agency working group has been created.

The CBA is working on an increase of the capacities of the current database of the FIU as the IT is not yet sufficiently developed to process and analyse all reports.

Only a few suspicious transaction reports have been disseminated to the Prosecutor's Office so far, and none of these cases have been fully investigated. No corruption related case has been identified.

Armenia is partially compliant with this recommendation.

Recommendation 23

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

The Law On Freedom of Information was not supplemented by the necessary regulations in order to properly implement it and ensure a more effective implementation of the access to information legislation in Armenia. The Code of Administrative Violations envisages sanctions for providing unreliable and untimely information in response to a request of any citizen, public organisation or a commercial organisation (monetary fine up to 10-50 minimal salaries). The Criminal Code also provides sanctions for failure to provide complete or correct information (monetary fine 200-500 minimal salaries). A list of information which is closed to public access was approved by the Government decision Nr 173 on 13 March 1998. Civil society stresses that despite the existing legal provisions, it is still difficult to access information from the government, especially at the local level.

Public participation in anti-corruption decision-making processes, such as about implementation of anti-corruption policies and their monitoring, could be strengthened with the new anti-corruption strategy in 2007.

Asset declarations of public officials are available on request (see recommendation 19).

Some progress has been made, but widespread concern remains among civil society and businesses as to the timely and full access to information.

Armenia is partially compliant with this recommendation.

Recommendation 24

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

There is some progress in the sphere of internal audit. The Strategy for Development of Internal Audit of State and Local-Self-Government Bodies, State and Local-Self-Government Enterprises and Commercial Organisations has been developed and approved. The Department of Financial Control was created at the Ministry of Finance; internal audit units are currently being established in line ministries. Training of auditors was conducted on the basis of the internal audit programme. Financing control institutions include Ministry of Finance and the Chamber of Control of the National Assembly.

Coordination and exchange of information among financial control, external and internal audit institutions and with the law-enforcement bodies remains weak. There is not an established mechanism for information exchange and actions in the event of suspicions/detection of violations, which may indicate corruption-related crimes.

The Chamber of Control of the National Assembly has first time carried out audit of law enforcement institutions; violations found were reported to the Prosecution Service (although, this can only be done with the approval of the Speaker of the National Assembly); auditing of such institutions as customs, military and law-enforcement bodies remains difficult due to large volumes of confidential information.

While the National Anti-Corruption Strategy foresaw the adoption of the new law on state financial control in 2007, no actions were undertaken to implement this provision of the Strategy so far.

A new draft law on the Audit Chamber was developed in Armenia, which aims to create an independent supreme audit institution.

Armenia is non compliant with this recommendation.

ADDITIONAL INFORMATION

Despite the presence of a wide range of corruption offences in the laws of Armenia, it is disappointing to see that in the few corruption cases have been prosecuted to conviction the rank of the accused has been low, the prison sentences relatively light and only a relatively small amount of illegal proceeds have been confiscated.

Since corruption crimes largely take place with the consent of both the active and passive participant, the crimes are typically difficult to detect and prosecute. Prosecutors and police blamed much of the difficulty on cultural attitudes against reporting such crimes by supervisors, colleagues, authorities or acquaintances. However, to date there is a lack of concerted effort to overcome these difficulties. Under current Armenian law, there is little incentive for a person to report bribery solicitations or offers. In fact, a person reporting that an influential figure solicited or offered a bribe risks being themselves prosecuted under Article 350 of the Criminal Code. This section, “Entrapment for Bribe or Commercial Bribe”, ironically provides for a greater maximum punishment (five years imprisonment) than the basic form of active bribery (Article 312.1 provides for a maximum of three years imprisonment).

In other countries faced with similar problems cooperation of witnesses has been increased by various strategies, such as anonymous hotlines to report crimes or corruption suspicions, offering various measures to ensure the protection of witnesses during and after legal proceedings,⁶ offering “whistleblower” or job security protection to those who report on colleagues guaranteeing that they cannot be fired or otherwise discriminated against at work in retaliation for their cooperation with law enforcement, creating financial or other incentives for those reporting on crimes that result in convictions or the return of illegal gains to the state. There was no evidence to indicate that any of these strategies have been considered.

There appears to be significant room for improvement in the coordination of activities and sharing of information among state agencies involved in the fight against corruption. It is impressive that Armenia has now required all public officials to file asset and income declarations, but it appears that no effort is being made to use these declarations as an effective tool against corruption. At present, neither attempt is being made to verify the accuracy of the declaration, or to determine if the assets or income declared are so significantly beyond the official’s salary as to raise suspicions of abuse of office. Tax authorities who receive the form have indicated that law enforcement authorities rarely ask for access to the declarations and they note that they will not give law enforcement the declarations unless there is a court order to do so. A number of different agencies have jurisdiction to investigate bribery cases and it is not always clear what advantages these separate agencies bring to the investigation. For example, the national security agency has jurisdiction over large-scale bribery cases but it is not clear how the investigations of this agency are

⁶ Witness protection measures at trial can include delayed disclosure for the witnesses name until shortly before the testimony is given, granting the prosecution the right to redact the address and other personal information about the witness from material shared with the defence, allowing the witness to testify so that their face is not seen by the public attending the trial, up to keeping the identity of the witness permanently from the defence in limited circumstances allowed by the European Convention for Human Rights.

coordinated with the national police. Nor is it clear what particular advantages the national security agency brings to these investigations since the agency is understandably reluctant to have its agents testify in court or reveal methods in public proceedings

CONCLUSIONS

Recommendation	Compliant (fulfilled)	Largely compliant (minor shortcomings, large majority fulfilled)	Partially compliant (some substantive action)	Non- compliant (major shortcomings)
National Anti-Corruption Policy and Institutions				
1. Anti-Corruption Council and Monitoring Group		+		
2. Law-enforcement statistics on corruption related offences		+		
3. Consolidation of law-enforcement efforts			+	
4. Study of models of specialised anti-corruption bodies		+		
5. Anti-corruption training, including joint training, and adequate resources for law-enforcement bodies			+	
6. Awareness raising for the public			+	
7. Ratification of Council of Europe and UN anti-corruption conventions	+			
Legislation and criminalisation of corruption				
8. International standards on corruption-related criminal offences; gifts for public officials and trading in influence			+	
9. Statute of limitation			+	
10. Immunity				+
11. Responsibility of legal persons for corruption			+	
12. Confiscation of proceeds and provisional measures			+	
13. Concept of official		+		
14. Bribery of foreign and international officials		+		
15. Mutual legal assistance		+		
Transparency of Civil Service				
16. Recruitment in civil service		+		
17. Codes of ethics			+	
18. Monitoring of conflict of interest and gifts				+
19. Declaration of assets			+	
20. Requirement to report corruption and protection of whistleblowers				+
21. Public procurement		+		
22. Money laundering			+	
23. Access to information			+	
24. Coordination among financial control and audit institutions to reveal corruption				+

ANNEX I: LIST OF PARTICIPANTS TO THE ON-SITE VISIT ON 10 – 13 APRIL 2006

Leader of the team of examiners:

- Daniel Thelesklaf (Switzerland)

Team of examiners:

- Inese Gaika, Head, International Relations Department, KNAB (Latvia)
- Nicholas Koumjian, American Bar Association (USA)
- Faina Yurkina, Ministry for Economic Development and Trade (Russian Federation)
- Aibek Omokeyev, National Agency for Prevention of Corruption (Kyrgyz Republic)

Secretariat:

- Olga Savran, OECD

Government bodies, other public bodies:

- Anti-Corruption Council
- Anti-Corruption Strategy Implementation Monitoring Commission
- National Assembly
- Ministry of Justice
- Prosecutor General's Office
- Ministry of Interior, Anti-Corruption Department
- Court of Cassation
- Civil Service Council
- Central Bank
- Ministry of Finance and Economy (Procurement Department)
- State Tax Service
- Chamber of Control of National Assembly
- Public Administration Academy
- National Security Service

Non-governmental organisations:

- Transparency International Armenia
- Achilles (traffic police issues)
- National Centre for Monitoring of Liberalisation Process
- Protection of Consumers' Rights
- Union of Manufacturers and Businessmen of Armenia
- Freedom of Information Centre
- Association of Sustainable Human Development
- Armenian Centre for National and International Studies Foundation
- The Armenian Centre of Human Rights Protection after D. Sakharov
- Committee for Protection of Freedom of Expression
- Association of Public Servants

International and foreign organisations:

- USA
- USAID
- OSCE
- UNDP
- Eurasia Foundation

ANNEX II: EXCERPTS FROM RELEVANT LEGISLATION

List of Annexes

available on request