



Progress on the Implementation of the OECD/ACN Recommendations for Armenia
under the Istanbul Anti-Corruption Action Plan Second Round of Monitoring
(period covered by this report: 1.10.2011 – 17.02.2012)

Trends in Corruption

Since October 1, 2011 two indices related to corruption were published. On December 1, 2011 Transparency International (TI) released Corruption Perception Index (CPI) data for 2011.¹ Armenia's CPI score in 2011 was 2.6 (on the scale from 0 to 10, with 0 representing highly corrupt and 10 very clean). Though it didn't change compared to 2010, this value is the lowest (together with the one in 2010) since 2003, when TI started to regularly include Armenia in its ranking list, and in 2011 Armenia shared 129th to 133th places on the CPI ranking list among 183 countries (in 2010 it shared 123th to 126th places among 178 countries).

Another international index, where corruption is included is the Heritage Foundation's 2012 Index of Economic Freedom, released on January 12, 2012.² Though with its overall quite high score of 68.8 (on the scale from 0 to 100) Armenia shared 39th-40th places in the ranking list of 179 countries and was included in the category of countries with moderately free economies, its *Freedom from Corruption* sub-index is very low (the lowest among all 10 sub-indices)³ equal to 26. As is mentioned in the report, this score is well below world averages and Armenia is ranked 125th out of 179 countries.

Anti-corruption Policy

Recommendation 1.2

On December 29, 2011 the monitoring reports on the implementation of the Anti-corruption 2009-2012 Action Plan for 2010 and first half of 2011 were finally posted (only in Armenian) on the relevant page of the Armenian Government web-site (see <http://www.gov.am/files/docs/914.pdf> for the 2010 Monitoring Report and <http://www.gov.am/files/docs/915.pdf> for the First Half of 2011 Monitoring Report). Any new reports are not published yet.

According to the 2010 Monitoring Report out of 351 outputs planned to be achieved through the implementation of the Action Plan, 148 were completely achieved, 141 – partially, and 62 – not achieved.

¹ CPI 2011 is calculated based on the data from surveys published between December 2009 and September 2011.

² Data are as of September 2011.



Assigning score “1” for the achieved results, “0.5” for partially achieved ones and “0” for not achieved results, the authors of the report argue that the expected results for 2010 were achieved by 62.3%.⁴ The picture varies from area to area, and the worst areas were Training of specialists for conducting anti-corruption education and implementing anti-corruption policies, and managing information on corruption (31.8%); Specialized anti-corruption bodies (33.3%), and Political corruption (35.8%).

The numbers for 2011 (first half), according to the report, do not essentially differ from those of 2010.⁵ Out of 271 outputs planned to be achieved through the implementation of the Action Plan, 97 were completely achieved, 116 – partially, and 58 – not achieved. Thus, applying the same method of assessment of the achievability, as for 2010, by the end of the first half of 2011, the expected results were achieved by 57.2%. The worst areas were Political corruption (11.1%), specialized anti-corruption bodies (25.0%), and training of specialists for conducting anti-corruption education and implementing anti-corruption policies, and managing information on corruption (30.8%).

Overall, the situation regarding the implementation and monitoring of the Action Plan didn’t substantially change from the one described in the Armenia Second Round Monitoring Report (see p.14 of the Report). Still there is lack of binding mechanisms for reporting and implementing measures; the lack of budgetary support is still in place. However, the worst problem still hindering the proper implementation and monitoring of the 2009-2012 Action Plan is the deficit of ownership of the by the Government. One of the indicators of such deficit is the fact that the monitoring reports were prepared by only two experts, who were funded by MAAC activity. Though they received complete informational support from the governmental bodies while conducting monitoring, it was a one-time activity, donor-driven and donor-funded. These experts never were hired by the Government for that purpose and, hence, as such efforts were not institutionalized, there exists high probability that they will not be available in the future,⁶ or

³ The overall Index of Economic Freedom is the arithmetical mean of 10 sub-indices, among which Freedom from Corruption.

⁴ See p. 15 of the Report

⁵ It should be, however, mentioned that the logic of the Action Plan requires assessment of the results on the yearly basis and correct assessment of 2011 results could be possible only after monitoring of the results for the second half of 2011.

⁶ This already occurred in the case of one of them, namely, Armen Khudaverdyan, who participated at the 10th Monitoring Meeting held in Paris on September 28-30, 2011 at which these recommendations were adopted. Currently he is one of the members of the newly established Commission on the Ethics of High-Ranking Public Officials, foreseen by the Law on Public Service.



there will be no donor to sponsor such effort⁷. Another strong indicator for the lack of ownership is that the permanent Secretariat foreseen by the Action Plan still does not exist.

Recommendation 1.3

Since October 1, 2011 no new surveys specifically on corruption have been conducted in Armenia. No information was found in print media or the official web-sites of the Government or ministries on conducting small surveys on corruption, practiced by governmental bodies.

The only survey, which contains questions on corruption, was a nationwide survey on political attitudes in Armenia, conducted by CRRC on December 6-16.⁸ According to the report on the results of the survey, only 4% out of 1491 adult respondents think that the situation with corruption in Armenia improved since February 2008. More than 52% respondents think that the situation with corruption deteriorated. Corruption is perceived as very important or somewhat important issue for 72% of the respondents (18th out of 26 selected issues). At the same time, only 22% of the respondents think that Armenian politicians give lot of attention (only 2%) or some attention to the fight against corruption. Lesser attention (among the same 26 issues), according to the respondents, is paid to the reduction of poverty (19%), prices for utilities (17%) and prices/inflation (15%).

Recommendation 1.5

- a. No such measures were undertaken, as no funding is foreseen from state budget for such purposes. Civil society organizations implemented several such projects with MAAC Activity support.
- b. This part of the Recommendation could be implemented by implementing mainly Measures 111.1, 111.2, 111.3 and 113.3 of the Action Plan. According to the 2011 (first half) Monitoring Report awareness raising projects has been implemented only by NGOs and only through donor, mainly MAAC Activity, and to some extent OSCE Yerevan Office, support. In addition, during 2008-2011 MAAC Activity organized 7 anti-corruption conferences aimed at enhancing the knowledge on the problems related to corruption and approaches in resolving such problems, as well as increasing the citizens' awareness towards corruption. As MAAC Activity ceased its operations effective from

⁷ MAAC Activity ceased its operations effective from October 1, 2011 and it is not clear, if there will be a new donor, who will be willing to support such activities. In fact, 2008, 2009 and 2010 Armenia Corruption Perception surveys, conducted by Caucasus Research Resource Center (CRRC), were also supported by MAAC Activity.

⁸ The report on the results of the survey is not published and National Democratic Institute (NDI), which sponsored the survey, distributed it to interested organizations, among them TI Armenia.



October 1, 2011, it is doubtful (and, also, there is no publicly available information) that such activities continued after October 1. From the other hand, Armenian state budget for 2011 did not foresee funding for such activities. Still there is no official web-site on Anti-corruption Strategy and its 2009-2012 Action Plan. The page in the Government's web-site www.gov.am contains only the mentioned above monitoring reports and the texts of the Strategy and Action Plan (all only in Armenian).⁹ Finally, according to the same report, no publicizing of the activities of anti-corruption bodies or awareness rising through mass media has been undertaken by the Government. Only MAAC Activity supported a number of TV shows and programs on corruption and its prevention.

Recommendation 1.6

- i. In order to increase the efficiency of the oversight of anti-corruption policies at the highest political level, Armenian Government chose to strengthen the existing institutional framework of specialized anti-corruption policy and coordination bodies, namely the Council on the Fight against Corruption, and Anti-corruption Strategy Implementation Monitoring Commission, which, according to the Charter of the Council, is affiliated to it.

The Anti-corruption Strategy 2009-2012 Action Plan foresees two Measures, namely 123.1 and 123.2, which contain provisions that could strengthen the Council on the Fight against Corruption. In particular, by Measure 123.1 it is foreseen to review (in 2010) the composition of the Council by expanding its membership to include representatives from Judicial Department, civil society organizations and business associations. By Measure 123.2 it is foreseen to expand the functions of the Council by empowering the Council to enhance and disseminate knowledge about corruption and anti-corruption, involvement of civil society in the fight against corruption, and responding to the appeals of citizens and publications of media on corruption cases. Both these measures could be implemented through amending the June 1, 2004 Presidential Decree PD-100-N "On the Establishment of the Council on Fight against Corruption". The draft of the presidential decree on amending the above-mentioned Decree PD-100-N has been developed already at the first half of 2010 and was approved at the October 12, 2010 meeting of the Council on the Fight against corruption. However, until now this draft has not been signed by the President and is not into force.¹⁰

⁹ The English versions contain only the drafts (not the final texts) of the Strategy and Action Plan.



Also the mentioned not signed yet draft presidential decree proposes that the Monitoring Commission organizes anti-corruption education for public officials and other anti-corruption awareness raising activities, as well as inclusion as permanent observers in the Monitoring Commission representatives of some civil society organizations, including TI Armenia.

From the publicly available information (TV, Internet, newspapers) it can be concluded that since October 1, 2011 the Council on the Fight against Corruption held only one meeting – on November 9, 2011, whereas according to its Charter it should hold at least two meetings per quarter. There is no publicly available information about the meetings of the Monitoring Commission, which should, by its Procedures, hold meetings at least once a month.¹¹ In sharp contrast to the situation with the implementation of the previous, 2003-2007 Action Plan, there is almost no information about Council or Commission meetings or their activities on the related page of the Government's web-site - <http://www.gov.am/am/councils/> Obviously, such rare meetings hardly can enhance the efficiency of the oversight of anti-corruption policies at the highest political level.

- ii. The mentioned above draft of the presidential decree also provides the establishment of a working group under the Monitoring Commission on a paid and permanent basis, which will carry out Secretariat functions and have capacities of the body adequate to the one foreseen in the Anti-corruption Strategy as Secretariat. As the draft is not signed yet, such is still not created.
- iii. With the absence of the Secretariat and current design of the Council and Monitoring Commission, this part of the Recommendation hardly could be implemented.

Criminalization of Corruption

Recommendation 2.1-2.2

- i. No changes were introduced in the relevant articles (Articles 311 and 311.1) since October 1, 2011.

¹⁰ The OECD Armenia Second Round Monitoring Report also mentions about this draft – see pp. 22-23 of the Report.

¹¹ According to TI Armenia sources from the Government, the Monitoring Commission didn't hold any meetings since October 1, 2011.



- ii. No changes were introduced in the relevant article (Article 311-2) since October 1, 2011.
- iii. No changes were introduced in the relevant article (Article 200) since October 1, 2011.
- iv. There is no publicly available information on what has been done for the implementation of this part of the Recommendation in the sense that no draft law to amend or change the Criminal Code to introduce illicit enrichment put into circulation (see National Assembly's web-site).
- v. No draft legal acts were put in circulation since October 1, 2011 to introduce liability for legal persons for corruption offences.

Recommendation 2.6.1

No draft legal acts were put in circulation since October 1, 2011 to increase the statutory periods for bribery committed by non-state official public servants and those in private sector for “basic” forms of bribery.

Recommendation 2.6.2

No draft legal acts were put in circulation since October 1, 2011 to meet the requirements of the Recommendation.

Recommendation 2.8

No draft legal acts were put in circulation since October 1, 2011 to improve access of law-enforcement agencies to financial data for detecting and investigating corruption-related offences. The same is true regarding changing Article 197 of the Criminal Procedure Code to extend time period of preliminary investigations of criminal case on corruption offences.

Recommendation 2.9

No draft legal acts were put in circulation since October 1, 2011 to improve either the delineation of competencies of different law enforcement bodies in detecting, investigating and prosecuting corruption-related offences or cooperation between law enforcement bodies in this direction. Since October 1, 2011 no new high-ranking public officials became subjects of investigations.

Recommendation 2.10

The web-sites of Police of Armenia (www.police.am) and the web-site of the National Statistical Service (see, for example <http://www.armstat.am/file/doc/99466658.pdf>, for 2010 data) contain any information



mentioned in the Recommendation.¹² More informative contains the relevant page of the web-site of the Office of the Prosecutor General (www.genproc.am), though it also is only in Armenian. However, data for 2011 (<http://www.genproc.am/upload/File/Korupcia%20-%20dataran%202011-i%20i%20kisamyak.pdf> and <http://www.genproc.am/upload/File/Korupcia%20-hetagannutyun&naxagannutyun%202011-i%20i%20kisamyak.pdf>) structurally are the same as for the previous years (see, for example <http://www.genproc.am/upload/File/1%20minchdatakan%20Korupcia%201.pdf> and <http://www.genproc.am/upload/File/datakan%20Korupcia.pdf>, for 2010) and they contain only number of investigations, prosecutions and convictions for each type of offences. The web-site of the Special Investigatory Service (www.investigatory.am) has no special page on statistics. The relevant statistical data could be found only browsing the News page (<http://www.investigatory.am/am/News/>) and finding news on summarizing the activities of SIS for the particular year or half year. In particular, there is already information for 2011 on the page <http://www.investigatory.am/am/News/item/148/>¹³ Here also the information is only in Armenian. The only useful and, to some extent, resembling the requirements of the Recommendation is that the data contain the number of convicted officials per area (police, tax and customs bodies, etc.), without mentioning their position and other data. It is also worth mentioning that here also the format remained the same, as for the previous years.

Prevention of Corruption

Recommendation 3.2.1

The Law on Public Service does not envisage creation of a central coordinative body for the whole public service and no draft legal acts were put in circulation since October 1, 2011 to establish such body.

The “vigorous implementation of new ethical norms by high-level officials could be assessed only after the Ethics Commission for High-Ranking Officials start to operate in full capacity.¹⁴ Also, there are no new rules of ethics in addition to those mentioned in Article 28 of the Law, though the same Article provides such possibility.

¹² It should be also mentioned that the information on the Police web-site is rather out-dated. The most fresh statistical information there is on comparison of the data of the first 9 months of 2009 with those of first 9 months of 2010 (see <http://www.police.am/images/stories/Vitjakagrutyun.pdf> only in Armenian). Statistical data of the National Statistical Service does not even contain information about corruption crimes (it gives statistics for all crimes and some selected ones, not including corruption crimes).

¹³ Interestingly, the report argues that, unfortunately, during 2011 there had been instances when either cases, which were not under the SIS jurisdiction, were sent to SIS or, vice versa, cases qualifying to be under SIS jurisdiction were investigated by other law enforcement bodies. This is an evidence of the lack of clear delineation of competencies among law enforcement bodies (see Recommendation 2.9).



No new specific Codes of Conduct have been adopted since 2011.

There is no publicly available information on the functioning of the Ethics Commission for High-Ranking Officials or the adequacy of the resources allocated to it. In general, media is not paying serious attention to the activities of ethics commissions, including Ethics Commission for High-Ranking Officials.

There have been no changes and/or amendments into the Law on Civil Service since October 1, 2011. According to the media reports, no serious changes in the practice of recruitment and promotion have been detected in the recent times.

The Law on 2012 State Budget (adopted on December 8, 2011) set the same basic salary (40,000 AMD or about 103 USD) for civil servants for 2012, as it was in 2011.

Recommendation 3.2.2

No changes have been detected in the existing Code of Conducts to ensure adequate rules and practical mechanisms regarding conflict of interest or acceptance of gifts.

The deadline for the submission of the declarations of property and income for high-ranking officials is April 15, 2012 (see Article 49 of the Law on Public Service). Thus, it could be possible to discuss its enforcement only after that date.

No steps were undertaken on enforcing the relevant provisions of the Law on Public Service regarding reporting of suspicions of corruption and protection of officials for such reporting.

As it has been mentioned above, the Ethics Commission for High-Ranking Officials, established on January 9, 2012 is still in the start-up phase and it is too early to implement the last part of the Recommendation on developing practical course on Public Service Ethics Training Program for High-Ranking Public Officials.

Recommendation 3.3

Analysis of all legal acts adopted since October 1, 2011, to reveal what has been done towards the simplification of regulation, requires substantial human resources and time, which is not available to TI Armenia.¹⁵ Thus, TI Armenia looked only at what have been done by the Government on those issues, which were mentioned in the Second Round Monitoring Report.

Regarding the notary offices, on December 22, 2011 Armenian Government adopted the Decree N1851-N (entered into effect on January 1, 2012) by which it approved the model forms for those contracts, which

¹⁴ The Commission was established on January 9 by the Presidential Decree NH-1-A, and so far there are no reports in media about any activities or investigations undertaken by the Commission.

¹⁵ From October 1, 2011 to January 24, 2012 Armenian National Assembly (NA) passed 101 laws and the Government adopted 549 decrees.



do not require notary's certification. The application of this Decree will allow reducing the number of transactions, where notary services are involved and the citizens can speed up (as well as avoid possible corruption risks) signing and enforcing certain, specifically related to those involving real estate, transactions without notary services.¹⁶

There are no new developments regarding traffic police. No information is available regarding the simplification of issuing licenses and permits.

The major step in reforming the inspection procedures in 2011 was the introduction of the system of risk-based inspection and inspection planning. This was done through the introduction of changes and amendments into the Law on Inspections passed by NA on June 23, 2011 and entered into effect on August 6, 2011. The expected positive effect from this amendment is that the focus of inspections will become those entities, which are assessed as those of high risk for the particular inspecting body (for example, for tax inspections, those are businesses, organizations or areas, where tax evasion is easier). Also, while planning inspections (inspections shall be planned on the annual basis), the inspecting body shall include in the list of entities to be inspected mostly those entities, which are in the group of high risk. Following the requirements of the law, Armenian Government approved the methodology of risk-based inspections and general description of risk assessment criteria for inspections carried out by tax bodies (Government Decree N1636-N from 10.11.2011) and the Inspection on the Control over Licensing Conditions and Requirements of the Ministry of Finance (Government Decree N1852-N from 22.12.2011), as well as the Exemplary Form for the Report on the Inspections and Studies Carried Out during the Previous Year and Guidebook for Its Preparation (Government Decree N1905-N from 29.12.2011). At the same time, similar documents on the methodology of risk-based inspections and general description of risk assessment criteria for other inspecting bodies are still not developed.

Certain steps were carried out on the follow-up of the September 17, 2011 Presidential Decree NH-246-N "On the Coordination of the Measures Aimed at the Increase of the Efficiency of the State Regulation of Economic Activities and Establishment of Council on the Reforms of Legal Acts Regulating the Economic Sphere of Armenia", which entered into effect on September 29, 2011 (the so-called "regulatory guillotine"). The Council consists of the Prime Minister (Chair of the Council), Chief Advisor to the President, Minister of Justice, Minister of Economy and Minister of Finance. Following the Decree

¹⁶ However, here there are two problems. As, according to the Law on Legal Acts, the Government Decree is a legal act of a lower level, than law or code, the adoption of the mentioned Decree shall follow to changing and/or amending the related law or code, in this case, Civil Code. This has not been done yet. Another problem here is that the application of this Decree will monopolize the real estate cadastre in these transactions, increasing corruption risks related to it.



Armenian Government by its October 13, 2011 Decree N1462-N (entered into effect on 27.10.2011) established the National Center on the Regulation of the Legislation project implementation unit within the Staff of the Government, which will implement the idea of the regulatory guillotine. By the Prime-Minister's Decision N999-A from 24.10.2011 the head of the Center was appointed and by his other Decision (N1072-N from 16.11.2011) the size of its staff (26 employees) was approved. On November 3, 2011 Prime Minister Tigran Sargsyan and representatives of donor organizations operating in Armenia signed a letter of intent on the cooperation in the implementation of the regulatory guillotine. On December 8, 2011 Austrian Development Agency awarded a grant of 500,200 EUR to support this project. At the same time, many experts and journalists remain skeptical towards the efficiency of this method in Armenia, as the major problems hindering normal functioning of businesses and economy, in general, in Armenia are more connected with the existing practices and overall environment, rather than the deficiencies in legislation. Also, they argue that the experience of such countries as Kyrgyzstan, Tajikistan or Moldova, which implemented this approach before (3-4 years ago), did not bring to serious positive changes there.

No new legal acts were adopted or draft laws put into circulation changing and/or amending the Administrative Procedure Code or Law on the Basics of Administration and Administrative Proceedings.

Recommendation 3.4

No new legal acts were adopted or draft laws put into circulation related to the Recommendation. No information is available from media on how the system of internal audit currently is performing. Also, no public information is available on providing trainings to the heads of administrative bodies and financial management staff in central and local governments on prevention of corruption.

Recommendation 3.5

TI Armenia is implementing a project on the monitoring of the Armenian procurement system. Some preliminary data will be available and disseminated by the end of April. For now it can be asserted that:

- Analyzing some randomly selected decisions of the Procurement Compliant Review Board it is legitimate to say that the Board makes impartial decisions, which, though indirectly, indicates that it is rather independent. All decisions of the Board are disclosed (see <http://gnumner.am/am/category/133/1.html> on the Armenian public procurement web-site – www.gnumner.am);



- No ethics and/or anti-corruption trainings or other practical tools for procuring authorities are in place as of today;
- The e-procurement system is still dysfunctional (judging from emptiness of the relevant page - <http://www.armeps.am/epps/viewInfo.do?section=statistics> in the Armenian e-procurement web-site – www.armeps.am), despite the fact that e-tendering should be introduced already by January 1, 2012;
- There is no information that mechanisms for the analysis of technical specifications are implemented. This is mainly connected with the lack of relevant specialists on technical audit;
- During its audit in the central and local self-administration bodies, the Chamber of Control mandatory is looking into the level of formal compliance of those bodies' procurement procedures and practices to the legal requirements. However, it does not analyze the integrity aspects of those practices;

Recommendation 3.6

As of February 20, 2012, there are still no sub-legislative acts to the Law on Freedom of Information. Thus, it is still not regulated keeping records of information, its classification and storage as required by Article 5 of the Law on Freedom of Information, as well as the so-called “three-part test” is still not introduced in the Law. TI Armenia does not have information if such mechanisms are established in public bodies in the absence of such sub-legislation.

No changes or amendments have been introduced in the Law on State and Service Secrets or the Law on Banking Secret. Nor there are drafts of laws introducing changes and/or amendments to these laws.

Article 344 of the Criminal Code is not yet repealed.

No changes have been introduced in the Law on Legal Acts, which regulates the dissemination of the concepts of laws and draft legislation, as well as the timelines for making them public.

Recommendation 3.7

On February 9, 2012 NA passed the law on introducing changes and amendments to the Law on Political Parties and changes and amendments into its accompanying laws. By February 20, 2012 it was not published yet, and, thus, did not enter into effect.

The Central Electoral Commission (CEC) has adequate permanent staff. However, its Control and Verification Service is not adequately staffed. According to Article 28 of the new Electoral Code (entered



into effect on June 26, 2011) the Service shall have only 3 permanent members, which is ridiculously low number¹⁷, considering how it was operating during previous national elections¹⁸.

So far, there has not been any coordination between CEC and Chamber of Control in identifying possible corruption risks of use of public procurement in financing political parties. TI Armenia will monitor this during the coming May 2012 parliamentary elections and will find out, if there will be such coordination between the mentioned bodies during those elections.

As it has been already mentioned, the operations of the Commission on Ethics of High-Ranking Officials, which will also oversee conflict of interest of political officials, are still in a start-up phase, as it was established only on January 9, 2012. The same is true regarding the disclosure of agenda and the register of visits of high-ranking officials. Similarly, for NA (Parliament) members, this will be possible to monitor after the changes and amendments into the Law on NA Procedures, among which are also provisions regulating ethical issues related to MPs, will be adopted (the corresponding draft was adopted in the first reading on February 8, 2012).

Recommendation 3.9

No information is available on possible dialogue between government and private sector or any awareness raising efforts of the government on integrity in business, corporate responsibility and public-private partnerships.

¹⁷ Though the same Article of the Electoral Code stipulates that during elections it could recruit up to 5 specialists for 1 month, it is still very insufficient.

¹⁸ In the framework of monitoring campaign finance and misuse of administrative resources projects implemented by TI Armenia during 2003 and 2007 parliamentary and 2008 presidential elections, the work of the named Service was also monitored and it was revealed that this Service simply did not have enough capacity to perform its duties.