

THEMATIC COMPILATION OF RELEVANT INFORMATION SUBMITTED BY ARMENIA

ARTICLE 7, PARAGRAPH 4 UNCAC

CONFLICT OF INTEREST

ARMENIA (NINTH MEETING)

- **Description of specific conflict of interest standard(s), indicating if these standards:**
- **Are publicized widely;**

The conflict of interest standards are stipulated in the Public Service Law, which is published in the public registry of legal acts (www.arlis.am). Meantime, Commission on Ethics for High-Ranking Officials circulates the standards through social advertisement, guidebooks, etc.

- **Regulate the outside activities of public officials;**

The Law on Public Service stipulates regulations on outside activities and does not allow public officials to engage in entrepreneurial activity, to hold position not related to their status in state or local self-governing bodies as well as to perform other paid work except for scientific, educational and creative work. The Law on Public Service also formulates the following restrictions prohibiting public officials to:

- 1) be the representative of third parties in relations with the body where he or she serves or which is directly subordinated to him or her or controlled by him or her;
- 2) work jointly with persons closely related to him or her or his or her in-laws if their service is related to each other with immediate subordination or supervision;
- 3) within one year following the release from post, be admitted to work with the employer or become an employee of the organization over which he or she has exercised immediate supervision in the last year of his or her tenure.

Additional regulations may be prescribed by sectorial laws.

- **Prohibit the holding by public officials of certain types of assets or positions in legal entities that are incompatible with their primary functions, such as an individual sitting on the board of a company;**

The Law on Public Service stipulates that public officials shall not hold a position in commercial organizations. Holding positions in commercial organizations means:

- 1) being in the governing body of a commercial organization;
- 2) holding any other position in a commercial organization,
- 3) being a trust manager in a commercial organization;
- (4) being involved, in any form, in representative, regulatory or managerial functions of a commercial organization. A public official (except for the President, a deputy, a member of the Government, a person holding an autonomous position) or a public servant - without payment, any other form of compensation, social benefits, other services or privileges - may be engaged in the board of directors of a commercial organization with 50 or more percent of participation of the Republic of Armenia, if it is directly connected to the implementation of policy related to the field of his competences.

Within one month upon assuming office, public officials shall ensure fulfillment of the abovementioned requirements.

- **Limit the official actions a public official may take because of a conflict of interest;**

The Law on Public Service provides regulations on conflict of interest and stipulates that public official shall avoid conflicts of interest as well as abstain from taking action or adopting a decision in the situation of conflict of interest.

In Armenia, the conflict of interest situation is defined as taking an action or adopting a decision (in exercising his or her liabilities) that can reasonably be interpreted as being led by his or her personal interests or the personal interests of his or her related persons.

- **Apply criminal, administrative or other sanctions where public officials do not comply with applicable conflicts of interest regulations;**

The violation of conflict of interest regulations entails disciplinary liability. In some instances actual conflict of interest may lead to criminal liability.

- **Description of training or advisory services to public officials regarding relevant conflicts of interest regulations;**

Currently, different specialized public education/training institutions including the Public Administration Academy, the Academy of Justice and the Center of Legal Support and

Training provide training services to public officials and public servants regarding conflicts of interest regulations. The Corruption Prevention Commission (will operate since June 2018, substituting the Commission on Ethics for High Ranking Officials) shall provide recommendations on trainings and education programs (including for officials and public servants) as well as educational and methodological guidelines for the program implementation.

Meanwhile, public officials and public servants can request advisory services on conflict of interest issues as well as recommendations on steps in a conflict of interest situation.

- **Description of public access to information on government processes in which there is a higher risk of conflict of interest between the interests and activities of a public official and the particular type of government process;**

The public access to information on government processes is provided by e-government tools.

- **Description of the specific duties and responsibilities of the specialized staff or bodies given responsibility to strengthen transparency and prevent conflicts of interest in government;**

The Corruption Prevention Commission will be responsible for preventing conflict of interest for public officials. For that purpose, declaration of interest is introduced. Declarations are also subject to publication. Sectorial ethics commissions are tasked to prevent conflict of interest for public servants and enhance transparency in respective services.

- **Description of the institutional structure and procedures to oversee the compliance with conflict of interest legislation and apply respective sanctions.**

In case of a conflict of interests, a person holding a position, shall submit a written statement (which is subject to discussion immediately) with the circumstances on the conflict of interests and shall refrain from taking action or making a decision on the matter before receiving a written consent on the further actions. The issue shall be examined and the respective authority shall take actions to resolve the situation.

Whenever actual conflict of interest situation occurs, the Corruption Prevention Commission will institute special proceedings against public officials. The power to institute proceedings against public servants is vested with sectorial ethics commissions. Meantime, each service/agency has integrity officials, who provide guidance, advise on integrity matters.

The violations of regulations on conflict of interests as a rule entail disciplinary sanctions.

- **Description of the measures aimed at preventing conflicts of interest concerning former public officials in private entities, such as:**
- **Restrictions, for a reasonable period of time, on the professional activities of former public officials;**

Restrictions based on the professional activity criteria are not imposed by the Law. However, there are restrictions for being hired by the employer or becoming an employee (within one year following the release from post) of the organization over which s/he has exercised immediate supervision in the last year of his or her tenure.

- **Restrictions, for a reasonable period of time, on the employment of former public officials by the private sector after resignation or retirement;**

According to regulations, public officials are prohibited to (within one year following the release from post) be admitted to work with the employer or become the employee of the organization over which s/he has exercised immediate supervision in the last year of his or her tenure.

2. Challenges in developing the proper legislative or regulatory framework for managing or preventing conflicts of interest;

Overall, there are no serious challenges in developing the legislative or regulatory framework on conflicts of interests and the country has undergone major legal developments related to conflict of interest system recently (The Law on Corruption Prevention Commission was adopted in 2017 without against voting, the New Law on Public Service Law was adopted in March 2018, illicit enrichment was criminalized in 2017, Law on Whistleblowers Protection was adopted in 2017).

- **Challenges in administering conflict of interest systems;**

The Corruption Prevention Commission and sectoral ethics commissions are vested with the power to administer CoI system, which is being still developed. Successful implementation of recent reforms will depend on the capacity development of the implementing institutions.

- **Challenges in relation to specific recruitment, selection or training requirements for categories of positions considered especially vulnerable to corruption, including possible early identification of potential conflicts of interest;**

Identification of CoI situations is currently an important challenge to be addressed in Armenia. The new system of interest declarations to be introduced in the country will help

better facing the issue. The obligation of interest declaration submission will also be applicable for the positions considered vulnerable to corruption. Moreover, anticipated actions of institutional capacity building of training and guiding public officials on the issues related to the situations of conflict of interest will add more effectiveness to the country's efforts of managing CoI situations.

- **Challenges in providing ethical guidance or advice to public officials;** and

Current gaps in institutional capacity of training and guiding public officials on the issues related to the conflict of interest are significant challenge in Armenia. However, as already mentioned, the new Corruption Prevention Commission will provide professional advice and methodological assistance on the issues at stake.

- **Challenges in communication, and in particular in raising awareness and disseminating information about new standards of conflict of interest or in developing training manuals, courses, curricula or other related material, including online initiatives, used in training programmes for public officials.**

Lack of strong communication capacities and sufficient resources impede awareness raising and communication on the corruption related issues. However, once established, the Corruption Prevention Commission will have powers to provide recommendations on trainings and education programs (including for officials and public servants) as well as educational and methodological guidelines for the program implementation. In this regard, instruments (trainings, consultations and materials) of raising awareness, guidance and disseminating information about new standards of conflict of interest are to be developed.

3. Do you consider that any technical assistance is required in order to allow you to fully implement this provision? If so, what specific forms of technical assistance would you require?

- **Legislative assistance:** Please describe the type of assistance

Legal assistance related to the development of tools and methodologies of effective cooperation with law enforcement institutions would be very beneficial.

- **Institution-building:** Please describe the type of assistance

Assistance in technological development and elaboration of technical solutions in the processes related to CoI management (including case management systems for proceedings) would be of high importance.

- **Policymaking:** Please describe the type of assistance

The need for assistance in capacity building for participation in policymaking is dictated by the establishment of the Corruption Prevention Commission in mid-2018, which will be vested with legal power to participate in the development of anti-corruption policies in the country.

- **Capacity-building:** Please describe the type of assistance

Assistance in building institutional capacity of training and guiding public officials on the issues related to the situations of conflict of interest would be critical.

- **Research/data-gathering and analysis:** Please describe the type of assistance

Learning about the analysis related to conflict of interest issues (including on the best practices of detecting and managing CoI situations) would be of great benefit to the Commission to be established.

- **Facilitation of international cooperation with other countries:** Please describe the type of assistance

It is worth to mention the importance of international cooperation in exchanging data and experience related to the initiated proceedings would also be very important.

- **Others:** Please specify

States parties are also encouraged to provide a description of any such assistance already being provided, including donor information.

National legislation of the Republic of Armenia on preventing and managing conflicts of interest and asset

Conflict of interests regulations

The national legislation, namely those in the Law on Public Service, the Law on NA Procedures, the Law on Civil Service, the Judicial Code, the Law on the Prosecutor's Office and other legal acts (overall 24 laws) regulating the conflict of interests, activity limitations and other limitations of public officials were analyzed. Based on the outcomes of the analysis, recommendations have been elaborated to eliminate inconsistencies discussed in the study. The recommendations covered issues related to standardized general rules of conduct and their implication, sectoral rules of conduct as well as local ethics commissions (establishment, functions, guidance and capacity building) and will be realized in the new draft legislation package circulated by the Government.

The Law of The Republic of Armenia on Public Service adopted on 26 May 2011 contained definition of conflict of interests and as a main duty of public servant declared the obligation of submitting a declaration of interests in cases and manner prescribed by law. However, the law didn't determine the cases and mechanisms for declaring interests. Besides, the law regulated the actions of only High-Ranking Public Officials in a Situation of Conflict of Interests and regulations for public servants were lacking. The Law on making amendments and supplements to RA Law on Public Service enacted on July 1, 2017 first time gave the mechanism for declaring the interests of high-ranking officials defining its content. Particularly, high-ranking officials should provide data on participation in commercial organisations, representation in the management, administrative or supervisory bodies of commercial organisations, transferring the share to trust management in a commercial organisation with the participation of a high-ranking official, membership in non-commercial organisations and representation in their management, administrative or supervisory bodies, Membership in political parties and representation in their management, administrative or supervisory bodies, contracts concluded with the Republic of Armenia or communities by a high-ranking official and the persons within the composition of his or her family, as well as by the organisations with their participation. Legislative package also established administrative and criminal liability for declaration violations, including declaration of interests of high-ranking officials.

At the same time the new draft law on Public Service was developed, which brings new regulations regarding conflict of interests. In particular, more concrete definition of conflict of interests is provided in the draft law. According the draft law, persons, who shall follow conflict of interests regulations, while appearing in a situation causing conflict of interests, shall inform their supervisor (persons not having supervisors shall apply to Commission for Prevention of Corruption) about the circumstances causing conflict of interests.

At the same time, Article 23 of RA Law on Public Service states:

Article 23. Limitations Applied to the Public Servants and High-Ranking Public Official

1. The public servant and high-ranking public official are prohibited to:

(1) be the representative of third parties in relations in connection with the body where s/he serves or which is directly subordinated to him/her or controlled by him/her;

(2) use his/her service position to secure actual advantages or privileges to political parties, and non-governmental, including religious associations;

(3) receive honoraria for publications or presentations stemming from the discharge of his/her service responsibilities;

(4) use for non-official purposes the logistical, financial and informational resources, state and (or) community property and official information;

(6) receive gifts, money or services in relation to the discharge of his/her service responsibilities, save for cases prescribed by the legislation of the Republic of Armenia;

(7) as a representative of the state, conclude property transactions with persons specified in clause 8 of this Paragraph, save for cases prescribed by the legislation of the Republic of Armenia;

(8) work jointly with persons closely related to him/her or his/her in-laws (parent, spouse, child, brother, sister, spouse's parent, child, brother, and sister) if their service is related to immediate subordination or control of each other (excluding deputies);

(9) within one year following the release from post, be admitted to work with the employer or become the employee of the organization over which s/he has exercised immediate supervision in the last year of his/her tenure.

2. In case of having participation (share, stock, stake) in the statutory capital of commercial organisations, public servants and high-ranking officials shall be obliged – within a one-month period following his or her appointment (election) to the post – transfer it to trust management in the manner prescribed by law. Public servants and high-ranking officials shall have the right to receive income from the property transferred to trust management.

3. Based on the peculiarities of various categories of public service the laws regulating these services may, in addition to limitations prescribed by this Article, prescribe other limitations.

4. A citizen who is not an individual entrepreneur, or a non-commercial organisation may also be a trust manager of public servants or high-ranking officials who have shares in the statutory capital of commercial organisations.

5. Persons having declaration obligation under Article 32 of current law, shall perform all the transactions on borrowing or lending money, on receiving or providing payments (interests or other reimbursement) for lent or

borrowed monetary means, on receiving donation of monetary means, on receiving monetary dividends, on receiving income from entrepreneurial activity, on receiving income due to alienation of property, on receiving payment or other reimbursement due to lending agreement, on receiving income from other civil contracts, on receiving payments, and on receiving income from property rights, where the one time received or provided amount of money is above 2.000.000 AMD or relevant foreign currency, exclusively on non-cash pattern.

6. Any income received in violation of part 5 of this Article is deemed as illegal”.

Article 24 of the same law states:

Article 24. Limitations of Other Activities of Public Servants and High-Ranking Public Officials

1. The public servant or high-ranking public official may not engage in entrepreneurship individually, perform other paid work, save for scientific, academic, creative work or work stemming from the status of the member of an electoral commission, except for cases provided for by Electoral Code of the Republic of Armenia.

2. Within the meaning of this Law, entrepreneurship means:

(1) private entrepreneur;

(2) shareholder of a commercial organization, save for cases when the shares of the shareholder of a commercial organization has been completely handed over to entrusted management;

(3) holding a post in a commercial organization, being a trust manager of the property of a commercial organization or in any other way being involved in the performance of representative, administrative or managerial functions of a commercial organization.

3. Within the meaning of this Law, entrepreneurship does not include:

(1) being a limited partner in a limited partnership;

(2) being a depositor in a credit or savings union;

(3) receiving part or the value of the property in case of leaving a commercial organization or its dissolution;

(4) having a deposit in a bank or insurance in an insurance company;

(5) having securities issued by the Republic of Armenia, the community or the Central Bank of the Republic of Armenia;

(6) selling the property owned by him/her or leasing it against a certain amount or compensation;

(7) receiving loan interest or other compensation;

(8) receiving royalties on the use or the right to use a work of literature, art or scientific work, on the use or the right to use any copyright, licence, trademark, design or model, plan, secret formula or process, a programme for electronic computers and databases or industrial, commercial or scientific equipment, or for the provision of information on an industrial, technological, organizational, commercial, and scientific experience or being included in the composition of the Board of Directors (observer board) of the commercial organisation with 75 percent and more participation of the Republic of Armenia, where it directly relates to the implementation by public servants or high-ranking officials of the policy in the field of their competence without remuneration or otherwise receiving compensation or the right to enjoy social guarantees or other services or privileges provided for non-public servants or high-ranking officials;

(9) receiving an award for the damages (loss) incurred.

4. Within the meaning of this Law, creative work is the creation and interpretation of culture and art, fiction, folk and craft, epic works, ethical and aesthetical ideals, rules and manners of conduct, languages, dialects and proverbs, national traditions and customs, historical and geographic names, results and methods of scientific research, objects of cultural heritage.

5. Within the meaning of this Law, scientific research is engaging in scientific research, experimental-construction, academic, experimental-technological, and intelligence activities in a scientific organization, institution, higher education establishment or otherwise.

6. Within the meaning of this Law, pedagogical work implies work as a teacher, lecturer (docent, professor) or doing other work that contributes and (or) ensures the process of meeting the requirements of learning of general education programmes (main, supplementary) and the thematic criteria, as well as obtaining the relevant knowledge, skills, and capacity by means of application of teaching methods.

7. Duties of public servants and high-ranking officials shall prevail over a scientific, pedagogical, creative work performed by them or other work activities not prohibited by law.

8. Remuneration for scientific, pedagogical and creative work of public servants or high-ranking officials may not exceed reasonable size, that is the size, which may be claimed by a person who has similar qualities for the same activity, but is not a public servant or a high-ranking official.

Responsible body

According to article 23 of the law of the Republic of Armenia on Commission for the prevention of corruption (Adopted on 9 June 2017) one of the functions of the Commission is following observance of regulations for ad-hoc conflict of interests for high-ranking officials. The Commission examines and settles applications on the cases of violations of ad-hoc conflict of interests by high-ranking officials.

Besides, the new draft law on Public service has been developed and approved by the Government on January 18 2017. According to this draft ethics commissions established according to the laws on public and municipal services are following observance of the requirements of integrity system (including conflict of interest regulations) (Draft law, Article 41, section 4). According to article 42 ethics commissions of public servants examine and settle applications on the cases of ad-hoc conflict of interests by public servants.

According the draft law, persons, who shall follow conflict of interests regulations, while appearing in a situation causing conflict of interests, shall inform their supervisor (persons not having supervisors shall apply to Commission for Prevention of Corruption) about the circumstances causing conflict of interests.

At the same time, according to the draft law on Public Service, special post for integrity manager shall be foreseen in the HRM units of all state and municipal bodies. Among other integrity related functions, the integrity officer shall provide suggestions to the servants on conflict of interest issues, collects statistics on conflict of interest issues.