

Information provided by the Ministry of Justice on the implementation, within its jurisdiction, of the relevant provisions of the United Nations Convention against Corruption

(In accordance with the requirements of the Open-ended Intergovernmental Working Group on Review of the Implementation of the United Nations Convention against Corruption)

With regard to article 5 of the Convention
(Preventive anti-corruption policies and practices)

The first State anti-corruption strategy, together with a plan of action for its implementation, was adopted by the Government of the Republic of Armenia on 6 November 2003 through Decision No. 1522-H.

The purpose of the anti-corruption strategy is to reduce the level of corruption, eliminate the causes of and conditions contributing to the emergence and spread of corruption and establish a healthy moral climate in Armenia, thus facilitating the establishment of democratic institutions, civil society and a State governed by the rule of law, together with free market competition, economic development and a reduction in the scale of poverty.

The anti-corruption strategy provides for a systematic approach, identifying a series of high-priority areas and outlining key anti-corruption measures.

It also sets out three main pillars of the fight against corruption:

- Increasing public awareness of the dangers and consequences of corruption
- Preventing corruption
- Upholding the rule of law in order to protect human rights and the lawful interests of the individual.

The Government of Armenia established its anti-corruption strategy and a programme of measures to implement that strategy for the period 2009-2012 by Decision No. 1272 of 8 October 2009. The [overall] programme is divided into the periods 2003-2007 and 2009-2012. Chapter IV of the programme is devoted entirely to anti-corruption policy in public administration and in certain sectors of the economy.

Under the national security strategy of the Republic of Armenia, effective public administration, especially with regard to anti-corruption issues, is recognized as a high priority.

The Government of Armenia has outlined the major aims of the anti-corruption strategy and the programme of measures for its implementation as follows: to increase the level of protection of human rights and freedoms and improve the effectiveness of the activities of State agencies and local government authorities; to inform the public about actions taken to combat corruption; to engage civil society and foster its active role in fighting corruption; to improve the public administration system; to increase the impact of civil society participation in public administration; to ensure that all members of society are equal before the law; to create equal opportunities; to increase the competitive opportunities available to businesses and to shrink the shadow economy.

The Government also seeks, through the programme, to continue to fulfil its obligations with regard to the Group of States against Corruption (GRECO) and the Organization for Economic Cooperation and Development (OECD), as well as the obligations arising from its membership of the Anti-Corruption Network for Transition Economies and under the United Nations Convention against Corruption, including those obligations entailing the adoption of legal instruments.

Many of the anti-corruption measures require the introduction of new legislation, and to this end an institutional reform of the legal system has been initiated.

The Act on the Prosecutor-General's Office provides for a separation of functions between the conduct of initial enquiries and the oversight of due process in pretrial investigations. It provides safeguards of the independence and transparency of the activities of the Prosecutor-General's Office. The concepts of "officials" and "perpetrators of corruption offences", the length of sentences and mechanisms for the confiscation of income and profits from corruption are defined and brought into line with the provisions of international conventions.

The principles governing the activities of judges and their appointment, guarantees of their independence, their code of conduct and the grounds and procedure for prosecution of judges are regulated under the Act. The adoption of the Legal Profession Act has facilitated the establishment of a judicial system that allows for competition.

The Council of Court Chairmen of Armenia approved the draft Strategic Anti-Corruption Plan for the Judicial System through Decision No. 92 of 21 February 2006. In accordance with that plan, the Judiciary Act, the Status of Judges Act, the Council of Justice Act and a number of other Acts which had become obsolete were to be replaced by a unified Judicial Code.

The Judicial Code of the Republic of Armenia was adopted by the National Assembly of the Republic of Armenia on 21 February 2007. It defines the principles of the judiciary's activities and self-governance, its structure and authority, the election of judges, their training and appointment and also the procedure for the further training of judges, their code of conduct and disciplinary liability, their scale of remuneration and other issues linked with further safeguards in relation to their activities, and the basis for a unified administration. In order to exclude any bias in the selection of judges (including on the part of the executive authorities), the judicial system now only accepts graduates of the Judicial School as new candidates. Only those lawyers who, following verification of their qualifications as established by law, are included on the list of candidate judges approved by the President of the Republic of Armenia, are eligible for such training.

Further anti-corruption measures include implementation of the relevant articles of the Criminal Code of the Republic of Armenia, namely article 311 on bribe-taking by judges and article 352 on the issuing of a clearly unjust sentence for reasons of personal enrichment or other personal motives. Provision is also made for the punishment of interference, through any means, in the administration of justice (articles 341 and 353).

The Commercial Arbitration Act was adopted in order to increase the use of alternative dispute settlement methods; it corresponds in particular to the standards provided under the United Nations Commission on International Trade Law (UNCITRAL) Model Law on International Commercial Arbitration. The Act seeks to guarantee prompt enforcement of arbitral awards, by preventing what are essentially duplicate proceedings in the State courts.

The criminal liability of arbitrators for bribe-taking or other forms of criminal corruption should be comparable with the liability of judges who commit such crimes.

With regard to article 7 of the Convention
(Public sector)

In order to instil and cultivate a culture of responsibility, transparency and accountability in the public service sector, Armenia has established and legislated for certain forms of State and municipal services. Both the selection of professional staff in the State and municipal services and their career progression within the service are conducted on a competitive basis. The pay structure for State and municipal employees is fixed and remuneration is established according to the post held and the employee's level of

qualification and length of service. Training institutions have been established for State and municipal employees, which provide retraining and refresher training based on updated curricula.

Specific codes of conduct have been adopted for State public servants, judges, prosecutors and diplomats, taking account of the special nature of their functions, and a code of ethics for other public servants has also been adopted. During the period from 2004 to 2007, government policy was oriented towards creating and increasing the scope available to agencies that revised and circulated information within public bodies and in public relations departments. Various mechanisms have been developed and implemented to involve civil society in public administration.

Representatives of civil society sit on the Governing Board for the implementation of major State programmes.

The necessary amendments have been made to the Judicial Code in order to improve the retraining offered to judges and to provide foundation training for candidates to the judiciary.

The “single window” policy for the State registration of legal entities has been established and a procedure developed for the retrieval and transmission of documents required by other State authorities for the State registration of legal entities through the State Registration Agency for Legal Entities.

Rules governing the work of structural units within the penal correction system in keeping with their functions have been drawn up and introduced. A system of certification has been established for posts within the penal correction system.

Ensuring that employees of the penal correction system do not fraternize with individuals held in penal correction institutions (in prisons) is crucial in reducing the corruption risk within the system. The risk of fraternization arises when an employee works for a prolonged period in one penal correction facility. The Penal Correction Service Act provides that an employee may be transferred without his or her consent from the current post to another equivalent post if the service so requires. Such a transfer is possible if the penal correction system employee has held the post for at least one year. Another provision establishes that a penal correction system employee is to be transferred to another equivalent post over the period during which a close relative or an individual closely linked to him or her by family ties (his or her parent, wife or husband, child, sibling, grandfather or grandmother, or the parent, child, sibling, grandfather or grandmother of his or her husband or wife) are either serving a custodial sentence or held in custody.

In accordance with the amendments introduced into the Penal Correction Service Act, adopted on 17 November 2009, provision was made for the institution of special civil servants, the classification of posts and the appointment and service procedure under the new Chapter 14.1. No other provisions under penal correction legislation relate to conflicts of interest.

With regard to article 8 of the Convention
(Codes of conduct for public officials)

As noted above, codes of conduct have been adopted for civil servants, diplomats and municipal employees, and compliance is monitored accordingly.

Specifically, the Code of Conduct for Diplomats was adopted through Decree No. 590 of the Republic of Armenia on 20 May 2002. This code establishes the rules of ethical conduct for diplomats both in the performance of and outside their duties.

The Code of Ethics for Public Sector Employees was approved by the Civil Service Council on 30 May 2002. This sets out standards of conduct that govern the relations of civil servants on the basis of general ethical principles.

The Ministry of Territorial Administration established the code of ethics for municipal employees on 11 September 2006.

Highlighting the significant role a code of conduct may play in guaranteeing the independence and increasing the accountability of the judiciary, thereby strengthening public confidence in the justice system and improving its reputation, on 23 April 2010 the General Assembly of Judges established the Code of Conduct for Judges through Decision No. 01-H.

The disciplinary regulations for the penal correction system of the Ministry of Justice were approved through Decision No. 999-N of the Government on 13 July 2006, in accordance with which disciplinary proceedings within the penal correction system are based on recognition of the personal responsibility of each employee for the performance of his or her professional duties, compliance with universal rules and the precise and timely execution of commands (instructions, orders) issued under the authority of his or her superior.

With regard to article 10 of the Convention
(Public reporting)

In order to monitor and guarantee the transparency of the declared income and assets of judges and to identify conflicts of interest, a procedure has been established within the ethics commission for the discussion of issues linked to the financial transparency of judges' activities, based on the statements of citizens and individuals.

The declarations of judges' income and assets are published on the official website of the judiciary (www.court.am).

With the aim of improving the mechanisms for public and ministerial oversight of the functioning of the penal correction system, reports by public observers and the comments of the Ministry of Justice are published on the Ministry's official website (www.moj.am).

With regard to article 13 of the Convention
(Participation of society)

The procedure for evaluating the impact of the provisions of draft anti-corruption laws and regulations was established on 22 October 2009 through Decision No. 1205-H of the Government of Armenia.

In accordance with the Legislation and Regulation Act, draft laws and regulations undergo a compulsory assessment of their anti-corruption impact. The primary aim of reviewing the impact that the provisions of draft laws and regulations will have on corruption is to improve the quality and effectiveness of the provisions of laws and regulations, thus allowing the impact of legal provisions to be gauged in advance.

The main tasks in evaluating the anti-corruption impact of the provisions of draft laws and regulations are:

(1) To identify factors which facilitate and (or) encourage corruption (henceforth: corruption factors) in draft laws and regulations;

- (2) To promote efforts to eradicate or minimize corruption factors in draft legislation.

The evaluation is being conducted by the Ministry of Justice.

In accordance with article 27.1 of the Legislation and Regulation Act, the body drawing up the draft law or regulation must both present the draft to those assessing the anti-corruption impact of the draft provisions and organize a public debate on the document. The aim of the public debate is to inform individuals and legal entities about the draft law or regulation and to conduct an opinion survey, leading to a final redrafting if necessary. Public debates on the draft law on the State budget of Armenia are to begin three days after the submission of the draft law to the National Assembly.

Public debates take place following the publication of the draft law or regulation and other materials, as required by a government decision, on the website of the body responsible for drafting the law. Public meetings may also be organized at the instigation of the drafting body, either with interested parties or in open hearings, debates and public opinion surveys, and also through the media.

The public debate lasts 15 days.

The procedure for public debates was established through Decision No. 296-H of the Government of Armenia on 25 March 2010. In particular, this Decision establishes the procedure for the public debate of draft laws and regulations, the procedure for informing interested individuals and legal entities, and also the procedure for canvassing public opinion and summarizing the outcome of the public debate.

Improving oversight and internal control mechanisms is of key importance in reducing the corruption risk in the penal correction system. In the Republic of Armenia, correctional units and institutions are currently subject to judicial, ministerial and public monitoring and to State and international oversight (through the Human Rights Defender and the European Committee for the Prevention of Torture).

Both judicial oversight, conducted through judicial examination of prisoner's complaints relating to the administrative acts of correctional institutions or units, and periodic public and ministerial monitoring of the penal correction system are crucial in reducing the corruption risk.

Public oversight of the penal correction system is conducted by a group of public observers organized by the Ministry of Justice.

The public observers have free access to correctional institutions without any requirement to obtain special permission.

The group of public observers has the right to submit its analysis, findings and proposals on the conditions within correctional institutions and to submit proposals on improving the legislation governing penal correction to the Ministry of Justice and the general public. The group's aims, working procedures and membership are also established by decree of the Minister of Justice.

Between seven and 21 observers may be deployed to form the group, for a period of five years. Thus, the group's mandate, structure, membership and working procedures enable it to be an effective force against corruption.

The group submits three forms of report — ongoing, yearly and periodical — to the Minister of Justice for comment. Reports by the group serve as an oversight mechanism for identifying problems and offering relevant proposals, the publishing of which in a readily accessible form contributes significantly to the transparency of the group of public observers' oversight activities in the eyes of the general public.

For the group of public observers' activities to be productive, it is also important for civil society to be active and to have the opportunity to conduct observation missions. The observers are not remunerated for their work, which is an important safeguard of their independence from the State system, although occasionally this deters would-be observers.

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