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## **ISTANBUL ANTI-CORRUPTION ACTION PLAN**

### **FOURTH ROUND OF MONITORING**

# **ARMENIA**

### **PROGRESS UPDATE REPORT**

**Please fill in this template with the information on the implementation of recommendations of the Fourth Round of Monitoring of the Istanbul Anti-Corruption Action Plan in Armenia.**

**Information should be included under 20<sup>th</sup> Plenary Meeting, March 2019. Please only include the new developments starting July 2018 and do not repeat what has already been mentioned in the previous reports. The total length of new information should not exceed 15 pages.**

**Please send the report to [tamara.shchelkunova@oecd.org](mailto:tamara.shchelkunova@oecd.org) by 25 February, 2019 at the latest.**

**The report will be reviewed and adopted at the 20<sup>th</sup> monitoring meeting in March, 2019.**

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## **BACKGROUND**

### **About the OECD**

The OECD is a forum in which governments compare and exchange policy experiences, identify good practices in light of emerging challenges, and promote decisions and recommendations to produce better policies for better lives. The OECD's mission is to promote policies that improve economic and social well-being of people around the world. Find out more at [www.oecd.org](http://www.oecd.org).

### **About the Anti-Corruption Network for Eastern Europe and Central Asia**

Established in 1998, the main objective of the Anti-Corruption Network for Eastern Europe and Central Asia (ACN) is to support its member countries in their efforts to prevent and fight corruption. It provides a regional forum for the promotion of anti-corruption activities, the exchange of information, elaboration of best practices and donor co-ordination via regional meetings and seminars, peer-learning programmes and thematic projects. ACN also serves as the home for the Istanbul Anti-Corruption Action Plan. Find out more at [www.oecd.org/corruption/acn/](http://www.oecd.org/corruption/acn/).

### **About the Istanbul Anti-Corruption Action Plan**

The Istanbul Anti-Corruption Action Plan is a sub-regional peer-review programme launched in 2003 in the framework of the ACN. It supports anti-corruption reforms in Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Mongolia, Tajikistan, Ukraine and Uzbekistan through country reviews and continuous monitoring of participating countries' implementation of recommendations to assist in the implementation of the UN Convention against Corruption (UNCAC) and other international standards and best practice. Find out more at [www.oecd.org/corruption/acn/istanbulactionplan/](http://www.oecd.org/corruption/acn/istanbulactionplan/).

## **PROGRESS UPDATE METHODOLOGY SUMMARY**

After the adoption of the Monitoring Report, the evaluated country presents a Progress Update at each subsequent ACN Plenary meeting.

The **Progress Update** begins with a description of the methodology, followed by the summary of the assessment of implementation of recommendations, as agreed during the Plenary Meeting of September 2016. It then goes into each recommendation separately, providing the country report, as well as the ACN and expert evaluation. Each recommendation section includes all progress updates since the last monitoring report.

**The Progress Update follows the following steps:**

### **1. Progress Update reports are prepared by country representatives**

These documents include information on implementation measures taken for each recommendation, and may also cover additional anti-corruption developments. Country representatives submit a written Progress Update report to the ACN Secretariat through appointed National Co-ordinators, together with supporting documents, such as laws and statistical data. Civil society also submits alternative reports on progress.

### **2. Preparation of preliminary assessment by ACN Secretariat and experts**

The Secretariat and the experts who contributed to the Monitoring Reports (or delegates replacing the experts) study the Progress Update reports and prepare a draft progress assessment for the Plenary Meeting. Civil society is also invited to contribute to the evaluation.

### **3. Discussion at ACN Plenary meeting**

ACN Secretariat and experts discuss the Progress Update during a bilateral preparatory meeting with country representatives. The Plenary then discusses and endorses the assessment.

### **4. Finalisation of Progress Update**

Following the Plenary Meeting, the Secretariat adds the final assessment to the Progress Update reports, finalises and publishes them on the ACN website.

## PROGRESS UPDATE SUMMARY

### 20<sup>th</sup> Istanbul Anti-Corruption Action Plan Monitoring Meeting March 2019:

Recommendation	Assessment of Progress		
	20 <sup>th</sup> Meeting March 2019		
Recommendation 1			
Recommendation 2			
Recommendation 3			
Recommendation 4			
Recommendation 5			
Recommendation 6			
Recommendation 7			
Recommendation 8			
Recommendation 9			
Recommendation 10			
Recommendation 11			
Recommendation 12			
Recommendation 13			
Recommendation 14			
Recommendation 15			
Recommendation 16			
Recommendation 17			
Recommendation 18			
Recommendation 19			
Recommendation 20			
Recommendation 21			
Recommendation 22			
Recommendation 23			
Recommendation 24			
Recommendation 1			
Recommendation 2			
Recommendation 3			
Recommendation 4			
Recommendation 5			

**Note:**

**Significant progress-** important practical measures were taken by the country to adequately address many elements of the recommendation (more than a half). This can involve the adoption and/or enforcement of an important law.

**Progress** - some practical measures were taken towards the implementation of the recommendation. For example, drafts of laws that have been at least approved by the

government and submitted to the parliament would constitute "progress" for the assessment of progress updates.

**Lack of progress** - no such actions were taken.

Recommendations, that appear to be fully addressed can be closed for the progress update procedure and further evaluated only as a part of the monitoring procedure.

## PROGRESS UPDATES BY RECOMMENDATION

### Chapter 1: Anti-Corruption Policy

#### Recommendation 1. Anti-corruption policy documents

1. Ensure that the anti-corruption policy documents are developed with wide stakeholder engagement and are based on needs and risk assessment.
2. Include ambitious measures to target actual corruption risks, key areas vulnerable to corruption requiring reform as a matter of priority.
3. Ensure participatory implementation and regular monitoring of the strategy. Systematically publish the results of monitoring to ensure accountability.
4. Carry out public opinion surveys to measure the level of corruption, public trust and impact of anti-corruption measures, including at sector level. Publish the results of the surveys and use them in anti-corruption policy development, implementation and monitoring.
5. Promote internal integrity action plans in public bodies based on risk assessments.
6. Ensure that anti-corruption policy documents are realistic, affordable and enforceable, accompanied by necessary budget for implementation. Include financial reports in the reports on implementation.

#### 20<sup>th</sup> Plenary Meeting, March 2019

##### Government report

- 1.1.
- 1.2.
- 1.3.
- 1.4.
- 1.5.
- 1.6.

##### CSO report

- 1.1. On 19 December 2018, the CSOs Anti- corruption Coalition of Armenia (hereafter in: Coalition) and “Armenian Lawyers’ Association” NGO (hereafter in: ALA), jointly with the RA Ministry of Justice organised a public discussion on the RA Anti-Corruption Strategy (hereafter in: Strategy Draft) and its Implementation Action Plan Draft (hereafter in: Action Plan Draft) for the period of 2019-2022, with participation of about 60 representatives of CSOs and state bodies.<sup>1</sup> In this regard, the Coalition and ALA welcomes the willingness of state agencies to engage in a constructive dialogue and ensure participation in the process of editing the Strategy Draft and Action Plan Draft. It is worth mentioning that on 11 June 2018 the

<sup>1</sup> <https://ccd.armla.am/en/3792.html>, <http://moj.am/en/article/2215>



Coalition and ALA presented to the RA Ministry of Justice a document entitled “Conceptual Provisions of the RA 2019-2022 Anti-Corruption Strategy”. The document included **49 recommendations, 11 of them were fully accepted** and included in the Strategy Draft, **7 were accepted partially, 6 were accepted to be taken into consideration, 22 were not accepted, 1 recommendation is at the stage of execution**, and it was revealed during the above-mentioned discussion that **2 recommendations are expected to be included** in the Strategy Draft.

Furthermore, on 19 December, 2018 the Strategy Draft and the Action Plan Draft were published on e-draft website. The deadline for submission of proposals/recommendations was initially set on 3 January, 2019, further extended to 8 January. Taking into consideration the limited deadlines for presenting comments and suggestions on the Strategy Draft, on 20 December, 2018, the ALA applied with a letter to the Prime Minister and suggested set realistic deadlines for conducting expert discussions with the involvement of public at large. Thus, the Coalition and ALA positively assessed the Government decision represented by the RA Ministry of Justice to extend the term of the public discussions on e-draft.am website, setting it up to 31 January, 2019.

On 31 January, 2019 the Coalition and ALA submitted second up-dated package of recommendations to the RA Ministry of Justice as well as posted these recommendations on e-draft.am website.<sup>2</sup>

**1.2. The Coalition and ALA highly appreciated the new approaches and structure of the Draft Strategy.** More particularly, it is expected to enforce the new anticorruption policy through educational, preventive, and law enforcement activities. It should be noted that the Coalition and ALA have said many times that efficient fight against corruption, as shown through research on best international experience, is built on three main pillars: anti-corruption education, corruption prevention, and inevitability of punishment in case of corruption offenses.

Addressing the ambitious measures included in the Draft Strategy, it is worth mentioning that under the Action 7 of the Action Plan Draft is envisaged **the establishment of the Corruption Prevention Commission and ensuring regular operation**. Action 52 (typo in the Draft – 51) in its turn envisages **the consideration of the question on focusing the functions of corruption crime investigation, as well as carrying out operational intelligence activities on corruption crimes in an existing agency or creating a new one for this role**. On the one hand, the mentioned action will be implemented under the RA Law on the Corruption Prevention Commission, therefore there is no need for including this action in the Draft with this wording. On the other hand, Action 51 foresees consideration of the question on focusing the functions of corruption crime investigation, as well as carrying out operational intelligence activities on corruption crimes in an existing agency or creating a new one for this role. We cannot conclude from the analysis of these 2 actions that the Strategy Draft suggests establishing an independent universal anti-corruption agency, which will possess corruption prevention, anti-corruption education and preliminary investigation and operational intelligence functions and powers.

Furthermore, the selection of the model is expressed the RA Government Program approved by the National Assembly in February, 2019. Especially, **the Government has highlighted the creation of a specialized anti-corruption body with guarantees of independence which has**

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<sup>2</sup> See the opinion and recommendations of the CSO Anti-Corruption Coalition of Armenia and the Armenian Lawyers’ Association on the Draft Anti-Corruption Strategy of the Republic of Armenia and its Implementation Action Plan for 2019-2022 at: <https://armla.am/en/3653.html>, [https://armla.am/en/wp-content/uploads/sites/2/2019/01/OPINION\\_Anti-Corruption-Coalition\\_-ALA\\_Eng.pdf](https://armla.am/en/wp-content/uploads/sites/2/2019/01/OPINION_Anti-Corruption-Coalition_-ALA_Eng.pdf). This document was submitted to the RA Ministry of Justice.

**the functions needed to conduct research and identify corruption offenses, while there is nothing said about the other two preventive and educational functions.**<sup>3</sup> Apart from that, if the Strategy Draft somehow references the two main functions fulfilled by the independent universal anti-corruption agency, the same cannot be said about introducing anticorruption education and the authority responsible for its implementation. The best international experience also speaks about (Hong Kong, Singapore, Latvia, Lithuania, and a number of other countries) the efficiency of such a model in fight against corruption.

Hence, in order to include ambitious measures to target actual corruption risks, **we recommend:**

*a. to remove the above-mentioned two actions from the Draft Strategy;*

*b. to foresee an action on creating an independent universal anti-corruption agency instead, one that would possess the functions of corruption prevention, anti-corruption education and preliminary investigation, investigation, and operational intelligence.*

Another ambitious measure that we think is necessary to include in the Strategy Draft is **establishment of specialised court on corruption cases.** Study of international practice suggests that in the fight against corruption, the courts specialised in corruption cases become more and more practical. At present, there are specialised anti-corruption courts in over 20 countries, such as Indonesia, Kenya, the Philippines, Slovakia, Uganda and so on. By saying an Anti-Corruption Court, we understand the judiciary or the specialised court staff who are specialised in investigating corruption cases. Creating such a court is a logical continuation of a specialised anti-corruption law enforcement system that we see under a universal anti-corruption body and a specialised anti-corruption unit in the prosecutor's office. Otherwise, no matter how professionally prepared is the case which goes to court, if the judge is not specialised in anti-corruption cases, where there are a number of peculiarities, for example, in connection with the burden of proof of illicit enrichment, it cannot be just and impartial. As a result, all anti-corruption efforts undertaken by the state will be useless.

**1.3.** The strategy monitoring and evaluation foreseen in the Strategy Draft are not based on the following vital **Kuala Lumpur principles (Kuala Lumpur Statement on Anti-Corruption Strategies**, adopted on 21-22 October 2013): a) **Integral part of strategy design**, and b) **Indicators with clear baselines and targets.** In the Strategy Draft insufficient attention has been paid to the section titled “**Monitoring Section,**” and in our evaluation 2 actions (61-62) in both the Strategy Draft and Action Plan Draft cannot guarantee efficient mechanisms of monitoring implementation. According to the Kuala Lumpur statement, monitoring and evaluation mechanisms are an inextricable part of national anti-corruption strategies and evaluation elements and data collection systems must be included in strategies at the very first design phase.

According to the Methodical Instruction<sup>4</sup>, one of the general requirements for the content of strategic documents is setting out **result indicators.** In particular, according to Paragraph 41 of the decision, for strategic goals realistic, qualitative and quantitative result indicators must be defined, and they will serve as a basis in the future for measuring project goals, evaluating progress and efficiency. According to Paragraph 42 of the Methodical Instruction, “**The main result indicators are the main characteristics used to evaluate and action achievement of goals. (...)**” Then, paragraph 43 sets out the following: “**When setting out result indicators**

<sup>3</sup> See the statement of the Secretariat of the CSOs’ Anti-Corruption Coalition of Armenia on the Anti-Corruption Section of the RA Government Program at: <https://armla.am/en/3699.html>.

<sup>4</sup> See N 42 protocol decision “On Approving the Methodical Instruction on Development, Presentation, and Oversight of Strategic Documents Influencing State Revenues and Expenses” approved by the RA Government at its session on 5 October 2017. Available in Armenian at: <https://www.arlis.am/DocumentView.aspx?DocID=116402>.

**in strategic documents, both the respective target indicators and their baseline indicators shall always be defined for each. The baseline indicators describe the factual level of the respective indicator for which the target indicators have been defined and for which progress in the respective result line will be evaluated afterwards. The target indicators reflect the targeted (desirable) level of the respective indicator, which the state strives to achieve through the respective interventions. (...)**

Therefore, we deem it necessary:

- a) to revise the strategy monitoring and evaluation system in the editing stage of the Strategy Draft, matching them with the Kuala Lumpur Statement and the Methodical Instruction requirements;
- b) to foresee result indicators for three months, six months, one year and the entire period that would reflect not only the factual performance of the action, but also the impact assessment;
- c) to allocate funds from the state budget for the implementation of monitoring of the strategy and its action plan by independent CSO experts.

It should be noted that due to absence of effective monitoring toolkit the Government unable to measure how efficient has the previous strategy and its action plan been, what result and influence has the previous strategy and its action plans in the fight against corruption in Armenia, as well as have the strategy and its implementation action plans been implemented fully or partially? In case of partial implementation, what were the reasons for failure to implement? What will be the future of the actions not implemented?

**1.4.** The following action foreseen within the 1st action of the Draft Strategy: “Carrying out regular surveys in the public on corruption, public trust level and impact of anticorruption actions, publicising survey results.” However, it must be noted that surveys on impact of anti-corruption actions should be carried out at the stage of anticorruption strategy monitoring implementation.

**1.5.** The following action foreseen under the 2<sup>nd</sup> action of the Action Plan Draft: “**Based on risk evaluation results, development and implementation of internal integrity action plans in state agencies.**” However, we deem it necessary to note that it is not clear what methodology will be used in risk assessment, and who will evaluate the efficiency of integrity action plan implementation. Apart from that, it is not understandable why internal integrity programmes developed based on risk assessment at least in 5 agencies have been defined. We strongly believe that it could lead to non-harmonious work of the governance system.

**1.6.**

## **Assessment of Progress**

## **Recommendation 2. Public awareness raising and education**

- 1.** Engage civil society and larger public in awareness raising against corruption.
- 2.** Conduct awareness raising based on a comprehensive communication strategy. Target activities to the sectors most prone to corruption and use diverse methods and activities adapted to each

target group.

3. Allocate sufficient resources to awareness raising measures, evaluate the results and impact and plan the next cycle of awareness raising accordingly.
4. Provide anti-corruption education at the various stages of the education process.

### 20th Plenary Meeting, March 2019

#### Government report

2.1.

2.2.

2.3.

2.4.

#### CSO report

2.1. The RA Government and the RA Ministry of Justice underline the importance of public participation in the fighting against corruption. In this regard we consider the RA Anti-corruption Council as a platform to bring up and professionally to discuss the important anti-corruption issues. However, the last sitting of the Anti-Corruption Council held on 13 October, 2017.<sup>5</sup> It is worth mentioning that in September, 2018 the Coalition applied to the Prime Minister and suggested to convene the sitting of the Council. This suggestion remained unanswered and no sitting of the Anti-Corruption Council was convened so far. As to public awareness campaigns, it should be noted that some public discussions were organized by the initiation of the Coalition and ALA. In addition, the video clips advertising the importance of the whistleblowing system were produced by the Ministry of Justice. However, we do believe that there is a need to organize public discussions in a regional level as well as to organize advisory and informative discussions with the members of society.

2.2. The comprehensive communication strategy for awareness is not familiar with us.

2.3. The comprehensive communication strategy for awareness is not familiar with us.

2.4. The anti-corruption education system in Armenia at a very low level. The anti-corruption action plan of the sphere of education for the period of 2018 (the Action plan was approved by the RA Government) contains important points dedicated to raising the level of anti-corruption perception and education. The Ministry of Education and Science provided ALA with the information on implementation of the mentioned Action plan. According to the information some vital actions were not implemented.

In addition, the Ministry has noted that in all communities the kindergartens, which are implemented anti-corruption trainings, games and events, were based. However, we consider this information incomplete and immeasurable. In order to assess the effectiveness of the action, the following information should be provided: detailed description of the content of

<sup>5</sup> See the protocols of the sittings at: <http://www.gov.am/en/anti-corruption-sessions/>.

trainings and games, the portfolio of trainees, how the trainings were organized, what are their results and impacts, how it can effect on the target groups' anti-corruption behavior and how it raises the anti-corruption perception and education.

It should be noted that the RA Justice academy, the Police Academy as well as the Justice Institute are organizing an anti-corruption programmes and trainings for correspondent servants on a regular basis. However, we are not familiar with the assesstment on how efficient the mentioned anti-corruption programmes and training mentioned above has been, whether their impact on the anti-corruption conduct of target groups has been evaluated.

**Assessment of Progress**

**Recommendation 3. Anti-corruption policy co-ordination and prevention institutions**

1. Define criteria for the membership to the Competition Board for the selection of Commissioners of the Commission for the Prevention of Corruption and ensure transparent selection process.
2. Ensure transparency and objectivity of the appointment of Commissioners, free from any, including political interference and that the process is seen as objective by the public at large.
3. Provide for adequate resources and permanent dedicated staff specialised in the anti-corruption work that proactively support the process of policy coordination, implementation and monitoring.
4. Strengthen capacity of public authorities in the development and implementation of sectoral anti-corruption measures, provide them with analytical and methodological support, ensure co-ordination (including CPC, anti-corruption focal points, integrity affairs organizers, ethics commissions and law enforcement bodies).
5. Establish a donor co-ordination mechanism to ensure effective support to the implementation of anti-corruption strategy and related programmes.

**20th Plenary Meeting, March 2019**

**Government report**

- 3.1.
- 3.2.
- 3.3.
- 3.4.
- 3.5.

**CSO report**

<p><b>3.1.</b> The members of the present Competition Board have been selected before the current recommendation have been made. On this regards we would like to praise one more time the election of the member of the Chamber of the Advocates as the only one done based on an internal competition where the anti-corruption experience has been taken into account and we would encourage other members of the Board in the future to have such competitions.</p> <p><b>3.2.</b> See recommendation 5.1.</p> <p><b>3.3.</b></p> <p><b>3.4.</b></p> <p><b>3.5.</b></p>
<p><b>Assessment of Progress</b></p>

## Chapter 2: Prevention of Corruption

<p><b>Recommendation 4. Civil service reform policy</b></p>
<p><b>1.</b> Assess the implementation of the new CSL and PSL and develop the civil service reform policy that is evidence-based supported by the relevant data, risk and impact assessment.</p> <p><b>2.</b> Introduce the new human resources management information system and start its application in practice for the entire civil service. Ensure that the disaggregated statistical data is produced and used in police development and monitoring. Ensure regular publication of the data on civil service.</p>
<p><b>20th Plenary Meeting, March 2019</b></p>
<p><b>Government report</b></p> <p><b>4.1.</b></p> <p><b>4.2.</b></p>
<p><b>CSO report</b></p> <p><b>4.1.</b></p> <p><b>4.2.</b> The new RA laws on Civil Service and Public Servants were adopted. Both the Laws envisage the inclusion of the Integrity officers and there are already some relevant bodies which have appointed their Integrity officers. According to the Civil Service Law it is planned to launch new electronic platform. The latter now is under development. Until the operation of the electronic platform the processes and performance of the functions assigned to the Civil Service Office is implemented in a non-electronic format. In addition, the new classifications of civil servants' group and sub-groups have been developed and operated as well as the new</p>

professional and work experience criteria have been set up.

#### Assessment of Progress

### Recommendation 5. Institutional framework

1. Take all necessary measures to set up the new institutions (Commission for the Prevention of Corruption and Office of Civil Service) as stipulated by law and make them fully operational in practice.
2. Ensure that the institutional memory is maintained after the change. Ensure continuity of the exercise of the related functions in the transitional period.

#### 20th Plenary Meeting, March 2019

##### Government report

5.1.

5.2.

##### CSO report

- 5.1. According to the RA Law on Civil Service, the Office of Civil Service has been established and acting as of 1st of July 2018.

The establishment of the Commission for the Prevention of Corruption was postponed because of the following. The members of the Competition Board in December 2018 have applied to the President of the previous seating of the National Assembly stating that all the work concerning making tests and internal policies for the competition has been already done, however

- there is a need to appoint a new member of Constitutional Court in the Competition Board as after parliamentary elections the previous representative of Constitutional Court in the Competition Board became a member of Parliament,
- there is a need to reappoint the member of National Assembly in the Competition Board as Armenia has undergone parliamentary elections.

5.2.

#### Assessment of Progress

### Recommendation 6. Institutional framework: ethics commissions in state bodies

1. Finalize adoption of the necessary legislation to ensure proper operation of ethics commissions in practice. Establish mechanisms for the monitoring the performance of ethics commissions.
2. Ensure that ethics commissions and integrity affairs organisers have necessary capacities,

<p>guidance and tools to perform their functions in practice.</p> <p>3. Ensure coordination among ethics commissions, the CPC, integrity affairs organizers and anti-corruption contact points in practice, as well as methodological guidance and support on integrity issues to individual agencies.</p>
<p><b>20th Plenary Meeting, March 2019</b></p>
<p><b>Government report</b></p> <p>6.1.</p> <p>6.2.</p> <p>6.3.</p>
<p><b>CSO report</b></p> <p>6.1. The legal provisions on the creation and operation of ethics commissions in the relevant bodies were set up within the RA Law on Civil servants. According to the Law, in the scope of the responsibilities of the Integrity officers are included, but not limited the provision of professional advice with civil servants and conduct monitoring of their job activities.</p> <p>6.2.</p> <p>6.3. The Corruption Prevention Commission (to be established) will ensure the consistent application of the incompatibility requirements and other restrictions prescribed by law.</p> <p>The CPC will carry out the following coordinating actions: 1) provide professional advice and methodological assistance with ethics commissions of the relevant bodies concerning the incompatibility requirements and other restrictions; 2) present advisory clarifications regarding the code of ethics for high-ranking officials (except for deputies, judges, and prosecutors), and make a proposal on steps to address a conflict of interest situation; 3) interpret the incompatibility requirements and other restrictions prescribed by this Law; 4) revise the opinions of the ethics commissions of the relevant bodies and others.</p> <p>Those activities will be carried out once the CPC is established.</p> <p>See also recommendation 5.1.</p>
<p><b>Assessment of Progress</b></p>

<p><b>Recommendation 7. Implementation of Civil Service Law and Public Service Law</b></p>
<p>1. Adopt secondary legislation necessary for the implementation of the new Law on Public</p>



Service and the new Law on Civil Service.

2. Carry out comprehensive and large-scale awareness raising and training of civil servants on the new legal framework with the special emphasis on the state bodies that did not previously belong to the civil service.
3. Prepare manuals and guidebooks related to the main HR processes.

### 20th Plenary Meeting, March 2019

#### Government report

7.1.

7.2.

7.3.

#### CSO report

7.1. The following secondary acts, that necessary to implement the RA Law on Civil Service, have been adopted:

1. N 29-N Decision of 31.07.2018, adopted by the First Deputy Prime Minister of the RA.<sup>6</sup>
2. N 192-A Decision of 08.10.2018, adopted by the First Deputy Prime Minister of the RA.<sup>7</sup>
3. N 336-A Decision of 16.11.2018, adopted by the First Deputy Prime Minister of the RA.<sup>8</sup>
4. N 3-N Decision of 11.01.2019, adopted by the First Deputy Prime Minister of the RA.<sup>9</sup>

7.2. From November until December, 2018 one-month trainings for the Head of HRs departments have been organized.

7.3.

#### Assessment of Progress

<sup>6</sup> Decision available in Armenian at: <https://www.arlis.am/DocumentView.aspx?DocID=126415>

<sup>7</sup> Decision available in Armenian at: <https://www.arlis.am/DocumentView.aspx?DocID=125755>

<sup>8</sup> Decision available in Armenian at: <https://www.arlis.am/DocumentView.aspx?DocID=126571>

<sup>9</sup> Decision available in Armenian at: <https://www.arlis.am/DocumentView.aspx?DocID=127641>

## Recommendation 8. Merit-based recruitment

1. Ensure merit-based recruitment in practice implementing new regulations.
2. Limit the influence of political officials in the recruitment for senior civil service positions.

20th Plenary Meeting, March 2019

### Government report

8.1.

8.2.

### CSO report

8.1. Recently legislative changes of the public service have been implemented to carry out merit-based recruitment in the public sector in order to establish the practice to recruit senior positions based on professionalism and competence. However, the negative practice to hire servants who politically motivated but non-merit-based is continuing. There are many public servants who have lack of professionalism and capacity but have been appointed in high level positions.

8.2.

### Assessment of Progress

## Recommendation 9. Remuneration

1. Increase the level of competitiveness of civil service salaries. Limit the share of variable pay in total remuneration. Ensure that the bonuses are linked to the performance evaluation and based on the clear and objective criteria.
2. Ensure practical implementation of the new civil service law provisions on performance evaluation and introduce mechanisms to monitor their implementation.

20th Plenary Meeting, March 2019

### Government report

9.1.

9.2.

### CSO report

9.1. Action 12 of the Action Plan Draft provides for step-by-step increase in the salaries of civil servants. However, **there is no exact indication of the amount of salary, and this does not**

**allow assessing the quantitative and qualitative indicators of the measure.** As regards the provision of perks (additional payments) based on clear and objective criteria, it should be noted that a number of legal acts have not guaranteed that civil servants receive perks only on the basis of objective criteria and exclude subjective approaches. This is evidenced by the gross violations and subjective attitudes in the awarding process in a number of state bodies at the end of the previous year, which had a great public response and subject to public criticism.

Furthermore, on 2 February, 2019 the Prime Minister's office has drafted a secondary act on "Establishing a unified order and conditions for awarding perks from the state budget". It is worth mentioning that this draft decision has several shortcomings. For example, the draft decision on perks (additional payments) stipulates that some types of public employees are entitled to receive perks up to 200 per cent of their monthly salary. Moreover, the draft decision stipulates that some categories of public employees will be entitled to receive perks three times in a year. In the contrast, current regulations allow to obtain perks twice a year. It should be noted that such kind of regulatory framework is contradictory to the principle of social justice because they are employees of other sectors (e.g. teachers, lecturers) who either received a little number of perks or did not receive any perks at all.

9.2.

#### Assessment of Progress

### Recommendation 10. Conflict of interests

1. Step up the enforcement of conflict of interest rules in practice by responsible institutions, including ethics commissions in public agencies and integrity officers.
2. Raise awareness and train public servants on the new regulations to boost the implementation. Provide necessary guidance on interpretation of these rules in practice.

#### 20th Plenary Meeting, March 2019

##### Government report

10.1.

10.2.

##### CSO report

10.1. Since January, 2019 the RA Government launched the process of setting up the Position of Integrity officer according the RA Law on Civil Servants. The above mentioned position with its functions has been exercised in relevant bodies.

10.2.

## Assessment of Progress

### Recommendation 11. Asset declarations

1. Provide systematic, impartial, consistent and objective scrutiny of asset declarations and subsequent follow up as required by law with the focus on high level officials.
2. Ensure follow up on alleged violations disclosed through e-declarations system.
3. Ensure that the body in charge of verification has access to all information and databases held by public agencies and tools necessary for its full exercise of its mandate.

#### 20th Plenary Meeting, March 2019

##### Government report

11.1.

11.2.

11.3.

##### CSO report

11.1.

11.2. Although statistical data has been provided by the CEHRO on the proceedings initiated by the commission on the violations of the regulations on declarations, however the latter refuses to provide any further information on the names of public officials thus acting in a non-transparent manner. Even in the cases when investigative journalists are requesting such information, the CEHRO rejects to disclose information referring to the “personal data protection” but avoiding to mention legal grounds of refusal which constitutes an infringement of RA Law on “Personal Data Protection”. Furthermore, one can assume from the observation of the CEHRO official website that the latter implements the personal data protection on selective basis: For example, the decision to suspend the examination of the issue of apparent violations of ethics by the head of the SCPEC Artak Shaboyan was published. Hence, it is unclear why just this decision was published and no other decisions were published.

It is worth mentioning that in the light of the domestic political developments we do believe that the CEHRO does not have institutional independence de facto. The bright example for this is the comparison of the factual activities of the CEHRO before and after the “Velvet Revolution”. Hence, CEHRO has issued the following number of decisions and warnings: **from 2015 to 2017 – 30 decisions and 400 warnings; – in 2018 - 550 decisions and 1500 warnings.** In addition, **CEHRO has had 2 cases referred to the prosecution service in 2018.** Currently there are two criminal cases initiated by the Special Investigative Service of the Republic of Armenia concerning the provisions on illicit enrichment. The mentioned cases initiated against former officials. It is worth mentioning that the staff of the CEHRO has not been subjecting of dramatic changes. Therefore it is questionable what are the reasons of these huge differences between the numbers of initiated cases during 2017 and 2018. As a result of such findings the issue of independence effectiveness of the CEHRO is under question.

**11.3.** Concerning tools necessary for its full exercise, the Coalition and ALA one more time raises the infrequent importance of including also expenses which are not considered as assets and daily minimum expenses in the scope of asset declaration aimed at having the full picture of the financial inflows and outflows and its further analyzes as well as giving the latter a mandate of requesting ad-hoc declarations by physical persons interrelated with public officials if needed.

**Assessment of Progress**

**Recommendation 12. Ethics code and trainings**

1. Adopt the codes of conduct as provided by legislation, or revise existing codes, to serve as basis for the enforcement of ethics rules and for ethics training.
2. Ensure systematic and coordinated ethics trainings throughout the public service.

**20th Plenary Meeting, March 2019**

**Government report**

**12.1.**

**12.2.**

**CSO report**

**12.1.** In the scope of the 2019 annual program activities of the Civil Service Office of the RA Prime Minister's Office the following actions will be taken:

a) in the second half of 2019 to ensure the development of the training programs for the members of the ethics commissions, to undertake the mentioned trainings.

b) in October 2019 to conduct the trainings on ethics rules for public servants. As a result of these trainings it is expected to ensure the participation of about 300 public servants in these trainings.

It should be also noted that from November until December, 2018 one-month trainings for the Head of HRs departments have been organized.

**12.2.**

**Assessment of Progress**

**Recommendation 13. Whistleblowing**

1. Establish clear procedures for submitting, reviewing and following up on whistleblower reports

<p>and providing protection and ensure their application in practice.</p> <ol style="list-style-type: none"> <li>2. Further raise awareness on whistleblowing channels and protection mechanisms to promote and incentivize whistleblowing.</li> <li>3. Ensure proper functioning of the related IT system and that the anonymity is observed in practice.</li> </ol>
<b>20th Plenary Meeting, March 2019</b>
<p><b>Government report</b></p> <p>13.1.</p> <p>13.2.</p> <p>13.3.</p>
<p><b>CSO report</b></p> <p>13.1. No action has been implemented in this regard in the reported period.</p> <p>13.2. No action has been implemented in this regard in the reported period.</p> <p>13.3. On 12.07.2018 the RA Parliament adopted amendment<sup>10</sup> to the RA Law on Whistleblowing System. According to amendment the operation of the unified electronic whistleblowing system platform was postponed by 1<sup>st</sup> January, 2019. However, the unified electronic platform is not operated yet, which highly jeopardize the effectiveness, full application and the development of the Whistleblowing System in Armenia.</p>
<b>Assessment of Progress</b>

<b>Recommendation 14. Integrity of political officials</b>
<ol style="list-style-type: none"> <li>1. Adopt the code of conduct for political officials and a separate code of conduct for members of parliament. Provide training, consultations and guidance for their practical application once adopted.</li> <li>2. Ensure proactive, systematic and consistent enforcement of the existing rules in practice without undue interference.</li> <li>3. Provide for systematic, consistent and objective scrutiny of asset declarations of political officials and subsequent follow up as required by law.</li> </ol>
<b>20th Plenary Meeting, March 2019</b>
<p><b>Government report</b></p>

<sup>10</sup> The amendment to the RA Law on Whistleblowing's System available in Armenian at: <https://www.arlis.am/DocumentView.aspx?DocID=123946>.

14.1.
14.2.
14.3.
<b>CSO report</b>
14.1.
14.2.
14.3.
<b>Assessment of Progress</b>

<b>Recommendation 15: Integrity in the judiciary</b>
<ol style="list-style-type: none"> <li>1. Consider continuing the reform of the judiciary to ensure its independence in law and practice.</li> <li>2. Establish open, transparent and competitive procedure of election of non-judicial members of the Supreme Judicial Council and specify criteria for elections as its member by the National Assembly.</li> <li>3. Ensure reducing courts' workload in practice, i.e. by considering increasing the number of judges and court staff.</li> <li>4. Ensure that judicial servants, including judges' assistants and secretaries, are recruited through an open, merit-based selection.</li> <li>5. Ensure in practice proper financing of the judiciary.</li> <li>6. Distinguish grounds and procedures of disciplinary liability and imposed termination of powers of judges in cases of involvement in political activity or violation of the political neutrality requirement.</li> </ol>
<b>20th Plenary Meeting, March 2019</b>
<b>Government report</b>

15.1.

15.2.

15.3.

15.4.

15.5.

15.6.

**CSO report**

15.1.

15.2.

15.3.

15.4.

15.5.

15.6.

**Assessment of Progress**





**Recommendation 16: Integrity in the service of public prosecution**

1. Consider further narrowing the powers of the Prosecutor’s Office to participate in non-criminal protection of the state’s interest by elaborating more specific criteria through internal policies for initiating or intervening in a case.
2. Introduce mandatory involvement of independent experts to the process of selection of a candidate for the Prosecutor General by the Standing Committee.
3. Consider abolishing the possibility of re-election of the Prosecutor General for the second consecutive term in office in favour of longer single term.
4. Provide prosecutors with the right to object to a body within the Prosecutor’s Office against assignments and instructions of the Prosecutor General when they find them illegal or unjustified.
5. Ensure that the closed competition to hire prosecutors is applied in exceptional cases and based on clearly defined criteria.
6. Change the rules of composition of the Qualification Commission so that a simple majority of its members should be appointed in a process that does not include the Prosecutor General. Increase representation of non-senior prosecutors in the representative bodies of prosecutors.
7. Consider limitation of the Prosecutor General’s discretion in decision-making on the issues recommended by the representative bodies of prosecutors.

**20th Plenary Meeting, March 2019**

<p><b>Government report</b></p> <p>16.1.</p> <p>16.2.</p> <p>16.3.</p> <p>16.4.</p> <p>16.5.</p> <p>16.6.</p> <p>16.7.</p>
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<p><b>CSO report</b></p>
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**16.1.**

**16.2.** In the light of the domestic political developments it might be considered that there is an issue with the General Prosecutor's Office institutional independence. For example, until 2018 the Office did not initiate the criminal cases against former officials. As for now the General Prosecutor's Office has initiated the criminal cases against former officials.

**16.3.**

**16.4.**

**16.5.**

**16.6.**

**16.7.**

#### **Assessment of Progress**

### **Recommendation 17. Transparency and accountability in public administration**

- 1.** Further enhance the participation and compliance with the requirements of transparency initiatives (OGP, EITI).
- 2.** Ensure publication of the information and datasets of the public interest in open data format.

#### **20th Plenary Meeting, March 2019**

##### **Government report**

**17.1.** On 15 November 2018 the RA Government of Armenia by its Decision N 1307-L approved the Fourth Action Plan of the OGP Initiative of the RA. The fourth action plan was developed with active participation of the CSOs. However, the recommendations aimed to ensure the transparency and accountability as well as the normal functioning of the system for declaration of property, income and interests, were not included in the fourth action plan. In addition, a recommendation to introduce a legislative obligation to ensure that all legal entities registered and/or operating in the Republic of Armenia disclose their beneficial owners and not just introduce and run the register, was also rejected.

See recommendation 20.7.

17.2.
<b>CSO report</b> 17.1. 17.2.
<b>Assessment of Progress</b>

<b>Recommendation 18 (parts of the previous recommendation that remained valid)</b> <b>Access to information</b>
<ol style="list-style-type: none"> <li>1. Ensure proactive publication of information by state bodies, clarify records management and classification system and introduce the registries of public information in state bodies; consider establishing a unified portal for proactive publication of information.</li> <li>2. Ensure efficient supervision and oversight of enforcement of the right of access to information as well as adequate powers and resources to issue binding decisions.</li> <li>3. Raise awareness of public officials to foster the culture of openness and transparency in Government and carry out systematic training of information officers and of other public officials dealing with access to information issues.</li> <li>4. Ensure implementation in practice of the provisions related to transparency of the entities using public resources.</li> </ol>
<b>20th Plenary Meeting, March 2019</b>
<b>Government report</b> 18.1. 18.2. 18.3. 18.4.
<b>CSO report</b> 18.1. 18.2.

**18.3.** Although the Strategy Draft includes measures to improve access to information provided by public authorities, nevertheless, it should be noted that vicious cases of not responding to inquiries in the deadlines still remain, in many cases they do not respond at all. Examples can be provided if necessary.

**18.4.**

#### **Assessment of Progress**

### **Recommendation 19: Public procurement**

- 1.** Systematically monitor contract award patterns both in competitive and single source procurement procedures
- 2.** Further enhance the electronic procurement platform to include all procurement procedures and comprehensive and machine-readable reporting facilities.
- 3.** Continue to introduce systematic centralized monitoring procedures and facilities to ensure impartial and technically adequate technical specifications, requirements and terms of reference.
- 4.** Ensure the publication of names of debarred entities and the reasons and duration of their debarment.
- 5.** Ensure that contract amendments and change orders are recorded, made publicly available, and any unusual patterns in this respect are investigated.
- 6.** Further reduce the use of single source procurement.
- 7.** Ensure independence, adequate professionalism and adequate budget and staff allocation for the Procurement Complaints Appeals Body.

**20th Plenary Meeting, March 2019**

#### **Government report**

**19.1.**

**19.2.**

**19.3.**

**19.4.**

**19.5.**

**19.6.**

**19.7.**

### **CSO report**

**19.1.**

**19.2.** The information on public procurement is publicized mainly in PDF format, which is not corresponding to the open data standards and is not machine-readable. Besides, not all the procurement is done via [www.armeys.am](http://www.armeys.am) portal. We are not cognizant of state monitoring on this issue.

**19.3.** Although, based on our recommendations, a specific government degree foreseeing mechanisms of surveillance by Ministry of Finance in those processes has been adopted, however we are not cognizant of real steps for fighting this malpractice as we continue to receive whistles on our Bizprotect.am website concerning the abuses regarding the designation of technical specifications by different entities. Despite the fact that the issue of developing a guideline identifying common criteria for technical characteristics of goods is discussed a lot, we do not have any tangible results in this regard.

**19.4.**

**19.5.**

**19.6.** No action has been implemented in this regard in the reported period.

**19.7.** No action has been implemented in this regard in the reported period. ALA continues to believe that the existing extrajudiciary appeals system is neither institutionally independent nor efficient and there is a need to establish a separate institution out of the Ministry of Finance with a separate budget line in RA State Budget and elected by the Parliament as well as to give it sufficient capacity by reviewing and increasing the number of its members, giving staff and abolishing the requirement of being only specialists of economy or law as they not be competent in all sectors.

**Recommendation 20: Business integrity**

1. Prioritise business integrity measures in national anti-corruption and law-enforcement policy.
2. Develop business integrity section of the anti-corruption policy documents based on risk analysis, in consultation with companies and business associations. Promote active participation of private sector in the monitoring of anti-corruption policy documents.
3. Ensure that business has a possibility to report corruption without fear of prosecution or other unfavourable consequences, for example through independent bodies. Promote such reporting.
4. Promote integrity of state-owned enterprises through their systemic reform, by introducing effective anti-corruption programmes and increasing their transparency, including setting the requirement for proactive publication of information. Develop, implement and monitor anti-corruption measures in state-owned enterprises.
5. Consider adopting a Corporate Governance Code for SOEs based on the OECD Guidelines and other international standards.
6. Promote the role of business associations for business integrity, such as studying corruption risks, disseminating good integrity practices; support awareness raising and training.
7. Ensure gradual and effective beneficial ownership disclosures: a) require disclosure of beneficial ownership of legal persons; b) create a central register of beneficial owners; c) publish the information on-line in open data format in line with local and internationally recognised guarantees of data and privacy protection; d) ensure dissuasive sanctions for nondisclosure in law and in practice.
8. Raise awareness of and train the representatives of state bodies and those of the companies on business integrity issues.

**20th Plenary Meeting, March 2019**

**Government report**

20.1.

20.2.

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20.8.

#### **CSO report**

**20.1.** Although the identification of corruption risks in the business sector included in the Strategy Draft, however we believe that the mentioned formulation is very common and thus consider that there is a need for specific actions.

**20.2.** It is worth mentioning that the Strategy Draft stipulates anti-corruption compliance programs. However, we do believe that the above mentioned is strongly linked to the institute of criminal liability of legal persons, which is not provided in the Strategy Draft. At the same time, it is necessary to note that the criminal liability for legal persons is envisaged under the Article 129 of the new draft Criminal Code, but there is no progress in this Draft for a long period of time.

20.3.

20.4.

20.5.

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**20.7.** The Action 28 of the Strategy Draft envisages the introduction of the Register of Beneficial Owners, which almost repeats the actions provided in Point 4 of Annex 1 to the RA Government of Armenia Decision N 1307-L of 15 November 2018 on “Approving the Fourth Action Plan of the Open Government Partnership Initiative of the Republic of

Armenia” with the difference that the program envisages the introduction of an open public Register of Beneficial Owners. However, **this document provides for only the creation and operation of a registry, as a result of which legal persons are provided the right and not the obligation to disclose to the beneficial owners.** It should be noted that the creation and launch of this register is already envisaged to be implemented within the framework of the Extractive Industries Transparency Initiative (EITI) where a pilot commitment will be set only for legal entities operating in the metal mining industry. We are convinced that the full implementation of this institution will be an instrument for fighting against merger of business and politics, monopoly, dominating position and anti-competitive agreements. Thus, we deem it necessary to establish a legislative obligation to ensure that all legal entities registered and/or operating in the Republic of Armenia disclose their beneficial owners and not just introduce and run the register.

20.8.

**Assessment of Progress**

**Chapter 3: Enforcement for Criminal Liability for Corruption**

**Recommendation 21: Criminal law**

1. Without further delay introduce liability of legal persons for corruption offences in line with international standards.
2. Enable law enforcement to effectively pursue corruption cases that involve legal persons.
3. Ensure that “essential damage” and “essential harm” as element of abuse of power offences are compliant with legal certainty requirements.
4. Analyse practice of application of the new provisions on illicit enrichment and, based on the results of such analysis, introduce amendments to address deficiencies detected, if needed.
5. Ensure the proportionality of sanctions in corruption cases.

**20th Plenary Meeting, March 2019**

**Government report**

21.1.

21.2.

21.3.



<p><b>21.4.</b></p> <p><b>21.5.</b></p>
<p style="text-align: center;"><b>CSO report</b></p> <p><b>21.1.</b> The new draft RA anti-corruption strategy 2018-2022 does not envisage the legal rules on the introduction of liability for legal persons. Neither the draft new RA Criminal Code nor changes to the present Code foreseeing the latter have been adopted by the RA National Assembly so far.</p> <p><b>21.2.</b></p> <p><b>21.3.</b></p> <p><b>21.4.</b> Currently there are two criminal cases initiated by the Special Investigative Service of the Republic of Armenia concerning the new provisions on illicit enrichment. Both are in the process of investigation. It should be noted that the main reason why we have just two criminal cases is related with capacities. In fact, we do not have strong capacities and effective instruments to investigate and find out reasonable basis to initiate criminal cases concerning the new provisions on illicit enrichment taking into account the specificities of burden of prove and etc.</p> <p><b>21.5.</b></p>
<p><b>Assessment of Progress</b></p>

<p><b>Recommendation 22: Detection and investigation of corruption</b></p>
<ol style="list-style-type: none"> <li>1. Continue to expand the use of various sources of reliable information and analytical tools to consider opening investigations into corruption. Introduce statistics on sources of detection of corruption offences.</li> <li>2. Remove existent limitations on access to financial information from financial institutions for the purposes of investigations and prosecutions of corruption offences and other financial crimes in line with the international standards.</li> <li>3. Ensure that law enforcement agencies have effective electronic access to the asset declarations, tax, customs, marriage, birth, travel, and other state databases.</li> <li>4. Establish a centralised register of bank accounts, including information about beneficial owners of accounts, and make it accessible for investigative agencies with appropriate</li> </ol>

safeguards.

5. Consider developing criteria that provides some limitations on the Prosecutor General's absolute power to transfer cases.
6. Enhance the cooperation and coordination between the law enforcement authorities and competent state bodies in charge of prevention, detection, investigation and prosecution of corruption offences.
7. Ensure that investigations of money laundering involving public officials or where the predicate offences are corruption are adequately coordinated with investigators and prosecutors who deal with corruption cases.
8. Build the capacity of investigators and prosecutors to conduct financial investigations and use circumstantial evidence; encourage use of in-house or outsourced specialised expertise; use IT systems to compile and analyse data for detection and investigation of corruption offences, identify areas prone to corruption.
9. Develop guidelines on detection, investigation and prosecution of bribery offences, when the bribe was merely offered or promised, as well as cases of trading in influence, and illicit enrichment.
10. Consider developing and adopting plea agreement legislation, policies and guidelines on its implementation.
11. Encourage various modern and informal forms of international cooperation and make good use of the available mechanisms for cooperation under the umbrella of regional and global organisations.
12. Collect and analyse data about the practical application of available international cooperation mechanisms during the investigation and prosecution of corruption cases, identify relevant challenges to cooperation and take necessary measures for their remedy.

**20th Plenary Meeting, March 2019**

**Government report**

22.1.

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22.12.

**CSO report**

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22.12.

**Assessment of Progress**

**Recommendation 23: Enforcement**

1. Step up efforts to detect, investigate and prosecute high-profile and complex corruption cases, especially by using financial intelligence, anonymous tips, whistleblower information, and other law enforcement tools in a targeted and proactive manner, aimed at persons among high level officials, main risk areas in public administration and economy.
2. Collect and analyse data on corruption cases to identify trends in types of corruption detected, investigated and prosecuted, to determine what practical challenges arise and how they can be tackled, including how new types of corruption offences are being investigated and prosecuted.
3. Complement criminal statistics on corruption-related offences with data on the seized and confiscated property.

**20th Plenary Meeting, March 2019**

**Government report**

23.1.

<p>23.2.</p> <p>23.3.</p>
<p><b>CSO report</b></p> <p>23.1.</p> <p>23.2.</p> <p>23.3.</p>
<p><b>Assessment of Progress</b></p>

<p><b>Recommendation 24: Anti-corruption law-enforcement bodies</b></p>
<ol style="list-style-type: none"> <li>1. Continue to strengthen capacity for fighting corruption by ensuring and guaranteeing institutional, functional and financial independence of law enforcement bodies dealing with fight against corruption.</li> <li>2. Put in place effective mechanisms to prevent various forms of hierarchical pressure and undue interferences with corruption investigations and prosecutions.</li> <li>3. Introduce competitive and transparent merit-based selection of heads of specialised anti-corruption agencies.</li> <li>4. Equip law enforcement institutions responsible for fight against corruption with adequate resources and provide their staff with consistent, needs-tailored training, especially on issues related to whistleblowers and asset declarations.</li> </ol>
<p><b>20th Plenary Meeting, March 2019</b></p>
<p><b>Government report</b></p>

24.1.

24.2.

24.3.

24.4.

#### CSO report

**24.1. On 14 February 2019, the RA National Assembly approved the RA Government Program. The Program highlighted the creation of a specialized anti-corruption body with guarantees of independence, and which have the functions that are necessary to carry out researches and to identify corruption crimes.** Article 51 of Draft Strategy and Action Plan Draft states consideration of the issue of executing the functions for corruption crimes investigation, as well as implementation of the operative-intelligence activities on corruption offences through operating single body or creating a new body by 2022. The above mentioned indicates that **on the basis of capabilities of the Special Investigation Service (SIS) it is anticipated to establish a body investigating only Corruption Crimes. The latter will also be endowed with the functions to conduct operational intelligence and preliminary investigation.** Based on the principles indicated in the 2012 Jakarta Statement on “**Principles for Anti-Corruption Agencies**”, we consider that the SIS does not have sufficient independence and is not endowed with exceptional guarantees to act as a **pre-investigation body authorizes to investigate corruption crimes.**

Thus:

- 1) **SIS mandate.** Article 2 (2) of the RA Law on Special Investigation Service (Law) establishes the range of crimes which SIS conducts a preliminary investigation. However, it should be noted that the **SIS’s mandate is not exclusive.** According to the Law, the RA Prosecutor General may take the criminal cases both from the proceedings of investigators and other investigation bodies in order to hand over these criminal cases to investigators of SIS. The latter action can be undertaken if there is a necessity to guarantee a comprehensive, full and objective examination based on its factual circumstances.
- 2) **SIS institutional affiliation.** According to Article 17 (1) of the Law, the **SIS is an independent state body and exercises its authority and is subject only to the law. However, it should be noted that the SIS is not part of the independent bodies provided for by the Constitution.**
- 3) **Appointment and dismissal of the head of SIS.** According to Article 9 (1) of the Law, the SIS Head is appointed by the **Government for a six-year term at the recommendation of the Prime Minister.** The appointment of the Head of SIS to the position by the Government is problematic as it contradicts to the principle of the independent body which exercising its powers stipulated by law.

In addition, this position is considered as an autonomous one, which is not changeable during its tenure **even in case of change of the ratio of political forces**. However, the recent political processes in the country and, as a result, the resignation of the SIS Head suggests that the position continues "to be viewed" as a political one, and legally guaranteed immunities do not actually work in reality.

- 4) **Structure, including internal structure.** According to Article 9 (4) of the Law, **the SIS Deputy Heads are appointed by the Prime Minister at the recommendation of the SIS Head**. And, in accordance with Part 5 of the same Article, the SIS Head shall appoint to and dismissed from other posts of the Special Investigation Service.

The abovementioned norms of the law indicate that the Law does not provide the SIS Head with the authority to appoint Deputy Heads. The latter means that the SIS Head has not **exclusive right and enough power** to appoint to and dismiss from the personnel of the body.

- 5) **Functions, powers and responsibilities.** Although the SIS Head is solely responsible for the activities of the SIS, however the law does not guarantee immunity for him, as well as he is not exempted from the criminal and civil liability for the functions performed under his mandate.
- 6) **Budget.** According to Article 31 (1) of the Law, SIS funding is provided within the scope of expenditures envisaged by the State Budget as prescribed by law.
- 7) **Accountability and Transparency.** According to the law SIS is not subject to parliamentary or public control.

*As a result, the future **specialized anti-corruption body (decentralized institutional system)** will not have enough capacity for fighting against corruption by ensuring and guaranteeing institutional and functional independence of law enforcement bodies dealing with fight against corruption.*<sup>11</sup>

24.2.

24.3.

24.4.

## Assessment of Progress

<sup>11</sup> Being convinced that the above-mentioned institutional system for fight against corruption is the most effective in the modern world, the Coalition and ALA presented Brief Summary on **the main advantages of an independent universal anti-corruption professional body and the shortcomings of the proposed decentralized institutional system**. The Brief Summary is available here: <https://armla.am/en/3699.html>, <https://armla.am/en/wp-content/uploads/sites/2/2019/02/Brief-Summary-1.pdf>.

## Chapter 4: Prevention and Prosecution of Corruption in Higher Education

### Recommendation 1: anti-corruption policy

1. Ensure that the sector strategy and action plan are implemented, and that progress is monitored and analysed in view of adjusting the priorities. Consider extending the timeline for implementation into the next strategic period.
2. Clearly indicate the budget necessary for the implementation of anti-corruption measures (amount and the resource that will fund implementation) and ensure that the measures address the conditions in the sector which contribute to corruption risk.
3. Ensure that the Ministry of Education and Science has sufficient capacity to coordinate, monitor, and steer the implementation of the sectoral anti-corruption strategy and report on progress.
4. Ensure that higher education institutions are provided with guidance and clearly defined obligations regarding the inclusion of anti-corruption priorities in their annual plans, the implementation of those priorities, and the monitoring and reporting on progress.

### 20th Plenary Meeting, March 2019

#### Government report

- 1.1.
- 1.2.
- 1.3.
- 1.4.

#### CSO report

- 1.1. The Ministry of Education and Science provided ALA with the information on implementation of the Action plan of the sphere of education. According to the information some vital actions were not implemented. In addition, the Ministry has mentioned that the universities drafted and adopted anti-corruption educational programs. Consequently, the universities are conducting the anti-corruption trainings. However, we again consider this information incomplete and immeasurable. No additional details on organizing of anti-corruption trainings were provided. Moreover, Coalition and ALA carried out a small survey and found out that not all the Armenian universities have introduced the anti-corruption training programs.
- 1.2.
- 1.3. There is a department of Programs Development and Monitoring within the Ministry of Education and Science which is responsible for coordinating anti-corruption activities. By assessing the activities and results of therefore it might be considered that the department has not sufficient capacity for coordinating, monitoring, steering and consequently maintaining the



smoothly process of implementation of the sectorial anti-corruption strategy.

- 1.4. The higher education institutions have not obligations to include the anti-corruption priorities in their annual plans, hence to implement these priorities, as well as to monitor and report their implementation progress.

#### Assessment of Progress

#### Recommendation 2: prevention - staff policies

1. Address the precarious employment of staff in higher education by reducing and eventually eliminating the practice of short-term, non-competitive appointments to increase employment security and predictability.
2. Ensure that conflict of interest regulations and mechanisms of disclosure for university staff are in place in all higher education institutions and are applied in practice. This should include the de-politicisation of governing structures in HEIs.
3. Introduce an obligation for members of the ethical and disciplinary commissions of higher education institutions to recuse themselves in case they are concerned by a case or complaint which the commissions are dealing with.

Provide that appointment and appraisals of the HEI staff are merit-based.

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##### Government report

- 2.1.
- 2.2.
- 2.3.

##### CSO report

- 2.1. The practice of short-term and non-competitive appointments in the educational institutions is a problematic issue in Armenia. Unfortunately, in a number of universities lecturers are hired on a short term bases. In addition, they are appointed without competition. We are convinced that in case of competition, the Competition Committee will have an opportunity to assess the professional capacity, qualifications as well as other requirement which are a crucial for the candidates in order to serve as a lecturer.
- 2.2. A small desk review research conducted by the Coalition, confirmed that there are only a few universities where the policy of conflict of interests was adopted. Unfortunately, we do not find information on whether this policy applied in practice or not.
- 2.3. Unfortunately, we do not find relevant information on this recommendation.

#### Assessment of Progress

**Recommendation 3: prevention - compliance and quality assurance procedures**

1. Introduce a model code of ethical conduct as a mandatory standard in the development of internal regulations of higher education institutions.
2. Introduce compliance, integrity risks and corruption prevention in the accreditation and reaccreditation criteria for higher education providers. Ensure that the support to higher education institutions provided as part of the external quality assurance, for instance through ANQA, includes the development of HEI capacity to meet these criteria.
3. Ensure that the entities in charge of licensing and accreditation are free from undue influence and conflict of interest.
4. Step up the development of internal quality assurance mechanisms, focusing specifically on the ability of HEIs to ensure compliance and involve students in QA processes on institutional level.
5. Consider combining the administrative and substantive aspects of internal audit in one process, which is binding for all higher education institutions, irrespective of their legal status.

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**Government report**

3.1.

3.2.

3.3.

3.4.

3.5.

**CSO report**

3.1.

3.2.

3.3.
3.4.
3.5.
<b>Assessment of Progress</b>

<b>Recommendation 4: prevention - transparency and accountability</b>
<ol style="list-style-type: none"> <li>1. Improve the transparency of reporting by higher education institutions on the financial and procurement aspects of their operation by introducing a mandatory common reporting template developed in consultation with higher education practitioners, stakeholders, and civil society.</li> <li>2. Introduce mechanisms for participants in higher education (<i>e.g.</i> students) to request access to information on the use of resources by their higher education institution for the fulfilment of its educational mandate, or any other aspect of university operation.</li> </ol>
<b>20th Plenary Meeting, March 2019</b>
<b>Government report</b>
4.1.
4.2.
<b>CSO report</b>
4.1.
4.2.
<b>Assessment of Progress</b>

<b>Recommendation 5: effectiveness of enforcement</b>
<ol style="list-style-type: none"> <li>1. Involve all relevant stakeholders in the development of a comprehensive detection and enforcement strategy in the higher education sector. This could include the description of sector-specific forms of violations in areas at risk of corruption and an update of descriptions of</li> </ol>

<p>administrative and disciplinary penal procedures, as appropriate.</p> <p>2. Collect statistics on administrative and disciplinary sanctions in higher education and make them publicly available.</p>
<p><b>20th Plenary Meeting, March 2019</b></p>
<p><b>Government report</b></p> <p>5.1.</p> <p>5.2.</p>
<p><b>CSO report</b></p> <p>5.1.</p> <p>5.2.</p>
<p><b>Assessment of Progress</b></p>