



**TIAC Remarks and Suggestions**  
**on the 4th and 5th Chapters of the Republic of Armenia Anti-corruption Strategy and**  
**Its 2009-2012 Implementation Action Plan (ASIAP)**

*General remarks and suggestions on the Strategy draft*

1. It is not clear from the Strategy draft what should be done with the implementation of those international obligations of Armenia (mainly OECD and GRECO), which have not been implemented or implemented partially (for example, establishing criminal liability for legal persons, etc.)

**Chapter IV**

*General remarks and suggestions*

1. A number of important areas, such as defense, national security, environment, mass media, urban development, transport and telecommunications, regulation of public services, economic competition and others are missing in the Chapter.
2. It would be desirable to include the issue of public participation in each section.
3. Include development of curricula for courses on anti-corruption education in the education section.

*Remarks and suggestions by sections and points*

**Section 4.3**

1. Point 175
  - a) take out from the first sentence “Official Bulletin on Procurement” words, as the Bulletin has not been published since November 2008;
  - b) the state authorized entity on public finance management is carrying out not only monitoring, but also oversight over the public procurement procedures;
  - c) in order to permit review of complaints on the procurement procedures by the entities and organizations, which are customers in the procurement transactions, it is



necessary to make relevant changes in the Law on Procurement, since currently there are no secondary legislation acts providing such possibility.

2. The content of the last two sentences of the Point 176 has no connection with the content of the previous ones. Also, please, clarify, what are the anti-corruption implications of changing the status of State Procurement Agency (SPA) employees from the current one to civil servant.
3. Point 177 According to the Law on Procurement the local self-administration bodies in Armenia could also choose not to receive paid services of SPA.
4. Point 178
  - a) from the second sub-point take out the “definition of clear procedures for the pre-qualification of the participants” words, as such procedures have already been defined;
  - b) in the same sub-point before the words “electronic means,” add “posted on SPA web-site ([www.procurement.am](http://www.procurement.am)),” words;
  - c) in the same sub-point add also the requirement of mandatory audio- and video-recording of the sessions of the bidding commissions.
  - d) Sub-point 4 lacks specificity. There are only declarative statements.

#### ***Section 4.12***

1. Based on the content of the section one could legitimately conclude that only the members of the Parliament are involved in political corruption in Armenia. In our opinion, it is necessary to address those manifestations of political corruption, which are characteristic of the executive branch of the government, President of the Republic and his staff, as well as other public officials. Consequently, the whole section should be revised.
2. The issue of political independence of the legislative branch of the government is not discussed at all. (The same occurs in the section on the judicial branch.)
3. The section is disproportionately strongly focused on the code of the conduct of MPs. Not denying the substantial role of ethics in the fight against corruption, at the same time it is necessary to clearly understand that in the countries with systemic corruption (and Armenia, so far, is classified as such country) absence of codes of ethics is the least factor



contributing in the effective fight against corruption, especially against political corruption. The fight against political corruption is primarily determined by the manifestation of political will to carry out free and fair elections, abolish the convergence of political and business elites and monopolies, etc. Thus, the focus in this and following sections of this chapter should be on the steps and measures aimed against the mentioned negative manifestations.

4. Point 252 It is obligatory to quote the cited sentence in Footnote 1 fully, correctly reproducing its meaning, from which it could be clear that illegal actions of political leaders or elected officials perpetrate political corruption.
5. Point 253 By correctly mentioning that “The risks of political corruption exist ... in the imbalance in checks and balances between the legislative, executive and judicial branches of the government”, it would be desirable to concretize this thesis and mention the manifestation of imbalance, bringing also concrete examples.
6. Point 255 Would it be better to introduce liability for breaking the oath?
7. Point 259 Public organizations and individual citizens should participate not only in the cases when they are the authors of those documents, but also in the discussions of other relevant documents (draft laws, suggestions and others), if they express their willingness to participate and **present their opinions and suggestions.**
8. Point 260 Why is the code of conduct of judges taken as a basis for developing the code of conduct for MPs? Where is the link between corruption and not valid absence from parliamentary sessions? If there is such connection, please, reveal it. It should also be clarified who should oversee the implementation of the requirements defined in this Point. In the same Point regarding public participation it should be given opportunity to any interested person to participate in the sessions and deliberations, as is the practice in many countries, applying the method of initial registration.

### ***Section 4.13***

1. The descriptive part of this Section is too large. It should be briefer.
2. Many violations that occur during elections, in particular bribing the voters and officials of electoral commissions, gerrymandering with voters' lists, etc. take place also during



referenda. Therefore, there should be discussion about corruption risks during referenda here, in this section, or in other part of the chapter, as well.

3. Point 262 According to the logic of the first sentence of the Point, Armenian authorities so far were reforming the Electoral Code mainly “due to the interference of well-known international organizations specialized in electoral processes, which periodically send observation missions to Armenia”. However, the Code still is far from complying international standards, as it still does not offer such mechanisms, which will more efficiently prevent possible violations of the electoral legislation, such as, for example, abuse of administrative resources.
4. Points 263 and 264 could be merged.
5. Point 264 It should be presented in a more detail, what is meant under “having more balanced electoral commissions”. Besides that it is not understandable, which problems did the parties face connected with filling the seats allocated to them in the electoral commissions. If those problems were related to the lack of human resources, then it has no connection with corruption and there is no need to mention about that. However, if the problems had different causes and those causes are connected with corruption (for example, the local structures of those parties or their members were bribed or threatened), then this should be explicitly mentioned. In this case, then, the problem is not in the lack of balance in the composition of electoral commissions. Also, it is suggested to take out the last sentence of the Point. First, international experience is not so unambiguous, especially in the case of precinct electoral commissions, and, second, it should be, in the first place, studied the practice of those countries, where the tradition of vote-rigging during elections has been overcome.
6. Point 265 The experience of the last two national elections reveals that problems connected with Article 40.1 of the Electoral Code are more connected with its implementation, when the members of the electoral commissions, representing the ruling political forces, simply violate the requirements of the provisions of the mentioned Article.
7. Point 267 Apart from mentioning the corruption risks characteristic to electoral processes, it is also necessary to point to those mechanisms of their neutralization, which could be introduced in the electoral legislation and implemented in the mentioned processes.



8. It would be more logical to move the part on the political party finance from this section to the section on political corruption, focusing in this section only on the election campaign finance, including campaign during presidential, parliamentary and local self-administration elections.
9. Point 273 Repeating our suggestion made in Point 264 (see the last sentence regarding to that Point), we categorically disagree with the suggestion to nominate state employees as members of precinct electoral commissions (PEC). Taking into account Armenian reality when the ruling political forces actually involve state employees in the political processes, political neutrality of PECs could be ensured only through having politically balanced representation in those commissions. This means that on the PEC level it should be parity (equal number) representation between ruling and opposition political forces. In that case at a higher level electoral commissions there could be nominated politically neutral (in the formal sense) persons, giving priority to the representatives of judiciary, whose major function should be checking the materials received from PECs and, in the case of appeals, figuring out the legality of such appeals. It should be explained also, how more active involvement of the civil society would ensure the impartiality of observation missions and mass media.

## *Chapter V*

### *General remarks and suggestions*

1. In this Chapter it should be added also analysis of possible corruption risks containing in the legislative acts (both adopted ones and drafts), as well as institutional analysis of the governance system.

### *Remarks and suggestions by sections and points*

1. Point 311 It should be a requirement that NGOs or other non-governmental entities should not get any state funding for conducting ASIAP monitoring and evaluation. In addition, the methodology applied used by governmental agencies for ASIAP monitoring and evaluation



should not be forced to be applied by non-governmental organizations conducting monitoring and evaluation of ASIAP.

2. Point 336 Public monitoring should not be limited only to methods mentioned in the attached list.

***Remarks and suggestions to Appendix***

1. While presenting the monitoring output indicators, it should be also mentioned the sources of information for those indicators. Besides it is not clear how the information on 1.6 indicator should be received.
2. Monitoring output indicators for administrative corruption are very incomplete. It is not feasible to evaluate the trends in administrative corruption with only 4 indicators of “Yes/No” type.
3. Regarding the monitoring output indicators for political corruption, in the first place they should be supplemented with additional ones based on TIAC comments made on Section 4.12, and, second, more targeted.

Yerevan

5 May, 2009