**Speech by Sona Ayvazyan, Executive Director, Transparency International Armenia during “Asset Recovery in Eurasia: Repatriation or Repay the Patron?” Briefing, organized by Commission on Security & Cooperation in Europe: U.S. Helsinki Commission, held on February 13, 2019**

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AYVAZYAN: Thank you for this opportunity to speak. For about two decades, Armenia was ruled by a kleptocratic regime, where an accepted way of governance was the embezzlement of funds, while the exploitation of natural resources, monopolies, kickbacks, law and policymaking for personal gains of certain individuals and clients. Though since 2003 Armenia and the government declared the fight against corruption and joined a number of international conventions and initiatives, there has not been any significant change. And the corruption perception index was fluctuating during recent years, and is fluctuation still, around 35, indicating systemic corruption.

Most of the so-called fight against corruption was of imitative nature, mainly in order to convince the international donors to provide more financial assistance to the country. Meanwhile, there was no true political will to eradicate something which was the source of power for the leadership of the country. In 2018, the Armenian people mobilized against the corruption and injustice in the country, and through peaceful demonstrations managed to remove the kleptocrats. Now for the first time, we have a government – or, better to say – we have a leader who is genuinely interested in eradication of corruption and has intention to take bold steps towards this end. Such interest and such intention were demonstrated by putting an end to corruption pyramidal schemes and activated detection of corruption crime with engagement of former hiring officials and their relatives.

With the new government, there came much hope for justice, but also an extreme raise of expectations that need to be met. One of the expectations is the recovery of assets stolen from the Armenian people. Many high-ranking officials of the corrupt regime managed to accumulate wealth both inside and outside of the country, including the U.S. and EU countries. According to global financial integrity, the illicit flow from Armenia during 2004-2013 was $9.8 billion. And it showed growing dynamics over years. Currently, the asset recovery is the priority for the anti-corruption agenda of the new government. In its five-year program, which is being discussed on these days in the Parliament of Armenia, the government proposes revision of the legal framework for the asset recovery and strengthening international cooperation as part of its fight against corruption agenda.

In addition, the government puts a particular emphasis on the transparency of beneficial ownership, and also intends to continue its fight against the organized crime and money laundering. Nevertheless, aside from just willing to recover the stolen assets, there are a number of problems that need to be addressed by the new government related to the policy, legal framework, institutional framework, human resources and the justice system. There is no policy with regard to asset recovery. Obviously, the previous government didn’t need that. And there is nothing at the moment. How is it going to be performed? What will be the principles to be followed? What will be the criteria, thresholds, procedures, et cetera? And lack of clear and transparent mechanism will pose risks for discretionary approaches that might put at risk the integrity of process, as we heard just now in the case from Kazakhstan.

In terms of the legal framework, there are certain limitations that need to be addressed, particularly the constitution prescribes that the laws and other legal acts deteriorating the condition of a person should not have retracted effect. So there is a need to elaborate and come up with some methodology which will allow to pursue stolen asset cases. Armenian legislation prescribes for conviction-based asset recovery. There is no civil procedure to confiscate property for the state. And hence, it’s worth to consider the adoption of the so-called civil forfeiture. There is no prescribed responsibility for the legal entities for criminal acts. And meanwhile we know that money generated through corruption are used for money laundering through companies.

The institutional framework is underdeveloped. There are a number of law enforcement bodies with overlapping and missing authorities and lack of independent, specialized law enforcement entity which could deal with corruption-related cases. There is a need to establish a specialized entity as soon as possible in order to deal with such cases. This entity should also have a dedicated unit for the search of the property, both inside and outside the country. There shall be a decision of how and who will be managing the confiscated assets. The investigative authorities shall possess all the tools for adequate examination of cases, and have access to respective databases, property declarations, and bank information.

As there has never been a practice of asset recovery in the country, there is a serious lack of capacities and skills for search of assets, for understanding of corruption schemes and money laundering schemes. The problem of capacity shall be resolve through specialization of institutions as well as series of capacity-building efforts that will involve officials of those institutions. In order to have a more holistic approach, we should mention that there is a need to address also justice-related issues. According to the constitution, it says that nobody can be deprived of its property without judicial procedure, which brings us to address the issues of the judiciary. Currently in Armenia, we have pretty discredited judicial system.

And now, though we have this legitimate legislative and legitimate executive, the judiciary is considered to be corrupt, unprofessional, and it is considered one of the five most corrupt institutions in the country. Justice reforms should take place with a special focus on increasing the public trust. In parallel with working in these directions to improve the system on a short-term basis, the authorities should prove that there is – that the political reason is not merely a wish. But they should also show operative reaction to the articles of investigative journalists, which were plenty, and now so they continue, and launch their own investigations. They shall reopen the cases that have been closed or suspended during the previous regime.

As of today, we have two major cases of stolen assets that have been revealed through Panama Papers and Paradise Papers. In one case, which was before the revolution, it was Panama Papers mentioned the name if Mihran Poghosyan, the head of the Compulsory Enforcement Unit of Judicial Acts, who the case was opened against him. However, not much efforts have been taken apparently for investigation, and the case was closed. And soon after that, he was elected as a member of parliament, via very controversial elections. This case needs to be reopened during this new government.

And another case revealed by Paradise Papers is related to Gagik Khachatryan, who for many years held high positions in the government. He was the minister of finance, head of the Committee of State Revenues. And though the case has been published after the revolution, there hasn’t been any concrete process. There hasn’t been any progress and investigation by the law enforcement bodies to pursue this case of stolen assets. The government needs to show as soon as possible to take concrete and practical steps to indicate that it has a political will to restore the assets and return the assets to the country. Thank you.