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**TRANSPARENCY INTERNATIONAL ARMENIA**

# **ANTI-CORRUPTION POLICY IN ARMENIA**

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## PREFACE

Corruption is not a new phenomenon in Armenia. It has existed for centuries in various forms throughout its history. After the fall of the Soviet Union, the “classical” forms of corruption, such as bribery and forgery, were supplemented by additional forms, which are typical of a market economy and a multi-party political system - political corruption, corrupt practices in public procurement and privatization, “state capture”, etc.

During 1990s, as other post-Communist states, Armenia underestimated a destructive effect of corruption on its democratization and market development. Officially, the fight against corruption was declared in Armenia in the early 2000s, when, in the course of the implementation of economic, political and social reforms, corruption was revealed as an extremely serious obstacle. This was confirmed by the studies conducted by several international organizations, for example, The World Bank.

In 2003, the Anti-Corruption Strategy and its AP were adopted in Armenia. From 2004 till present, the Anti-Corruption Council headed by the Prime Minister of the Republic of Armenia and its Monitoring Commission function. Armenia joined a number of international conventions against corruption and became a member of international anti-corruption organizations. Through the last few years, a large number of laws aimed at preventing corruption were adopted.

With the support of international organizations, foreign states and Armenian Diaspora, the reforms in the systems of public administration and judiciary, customs, tax, education, public health, social protection and other sectors are being currently implemented. An annual two-digit economic growth, growing trade and services, a large scale of construction, and an increasing number of tourists visiting Armenia are evident. **Yet, has the level of corruption decreased?**

The following questions arise: why are human rights violated every day, freedom of speech restricted, fair market competition hindered, shadow economy flourishing, elections falsified and political arena criminalized? Why are people still emigrating, the environment deteriorating because of illegal construction, cynicism and indifference within the society thriving, and ordinary citizens scared to resist authorities, oligarchs and the “brutal” forces around them?

Why are farmers left without irrigation water and the simplest means of communication? Why are pensioners unable to pay for their utilities and why do beggars continue to increase as a visible part of the society? Where does the continuously increasing national “wealth” go? Why is the national currency revalued? Who are those that actually benefit from the country’s assistance programs? What does the future hold for Armenia, if strict measures are not taken to improve the current situation and the reform processes to favor people instead of a group of individuals and their clans?

The goal of this publication is to evaluate anti-corruption policy in Armenia, based on the analysis of the developments that took place in this field during the last three years. The given analysis was made through application of internationally recognized evaluation criteria. The first chapter of the publication presents general information about corruption, its impact around the world and the existing international anti-corruption approaches and tools.

The second chapter includes data concerning perception and measurement of corruption in Armenia, Anti-Corruption Strategy Program and Its Action Plan, application of the mechanisms of international monitoring, and the analysis of existing institutional legal frameworks. The proposed recommendations brought in the last chapter are based on the mentioned analysis and grouped as those having a general character and those reflecting three main directions of effective anti-corruption policy – detection, prevention and public support.

The presented analysis is the first step in summarizing past experience and initiating broader public and expert debates to promote development and implementation of effective anti-corruption policy in Armenia.

## **CHAPTER I. INTRODUCTION**

### **What is Corruption?**

Corruption is abuse of power for private gain. “According-to-rule” corruption takes place when a state official receives private gain for performing his/her duties defined by the law, for something that is required according to the rules. “Against-the-rule” corruption occurs when a state official gains benefits for a service, which he/she has no legal right to provide and thus violates the law.

Corruption manifests itself in different forms and dimensions. Ordinary citizens face small scale or “petty” corruption in their everyday life in such areas as traffic police, education, public health, etc. Large scale or “grand” corruption is less visible for the public and less detectable; it usually involves political and economic elites. Areas of grand corruption are public procurement, use of international assistance, etc. Whereas the said examples refer to the realm of administrative corruption, bribing voters and/or members of electoral commissions, using administrative resources during elections, as well as appointments to high-rank non-political positions based on personal interests are classical examples of political corruption.

Corruption “infects” all institutions and values within the state and society and has a destructive effect on economic, social and political developments of a country. As a systemic phenomenon it can emerge in any country at any government level regardless of the country’s development status. According to Transparency International (TI) 2005 Corruption Perception Index (CPI)<sup>1</sup>, 113 out of 159 indexed countries (or more than 70%) were ranked as below 5 (on the “1-10” scale, where index “10” is given to a state absolutely “clean” from corruption and “1” – to a state, which is “absolutely” corrupt) showing that corruption invaded all spheres of public life in these countries.

In 70 out of 113 countries (or about 45%) CPI was below 3, which means that the existing widespread large-scale corruption threatens the social and political stability of those countries. Currently, Armenia is placed in this group and during the last three years has not shown any visible progress, with CPI equal to 3.0, 3.1 and 2.9 (in 2003, 2004 and 2005), respectively.

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<sup>1</sup> [http://www.transparency.org/policy\\_and\\_research/surveys\\_indices/cpi](http://www.transparency.org/policy_and_research/surveys_indices/cpi)

According to TI experts, the countries with the lowest CPI are at the same time among the poorest countries, as corruption is one of the main causes of poverty and a serious obstacle for poverty reduction. Obviously, poor countries are the biggest victims of corruption. However, it is evident that wealth by itself does not entail to the establishment of the rule of law, and the recent corruption scandals in the developed countries strongly confirm such observation. In any case, without fight against corruption neither poverty reduction, nor political stability is ensured.

In the opinion of 55,000 respondents surveyed in 69 countries for the TI 2005 “Global Corruption Barometer”<sup>2</sup>, political parties, the police and the judiciary are the most corrupt areas in their states. The respondents were confident that corruption negatively affects political and business life in their countries and that in the last three years corruption levels have increased.

In 2002, the Center for Regional Development/Transparency International Armenia (CRD/TI Armenia) NGO conducted a study titled “Country Corruption Assessment: Public Opinion Survey”, according to which the traffic police, the army and the healthcare system were named as the most corrupt<sup>3</sup>. The majority of 1,000 households mentioned that in the last five years corruption level in the country had increased and that the main perpetrators of corruption were state officials<sup>4</sup>. The interviewees referred to poor law enforcement, imperfect legislation and absence of control and punishing mechanisms to be the main causes of corruption in Armenia<sup>5</sup>.

In 2005, a countrywide phone survey of 1,500 households was carried out by CRD/TI Armenia, which revealed that 62.9% of respondents believe that the level of corruption in the country has increased. The majority of respondents believed that all state institutions were corrupt, while the police, the courts and the prosecution system were named as the most corrupt institutions. Hard socio-economic conditions, anarchy and greed of state officials were mentioned as the main causes of corruption<sup>6</sup>.

The organization also conducted 25 individual interviews and 5 focus group discussions, in which state officials, businessmen, journalists, representatives of NGOs, Diaspora and

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<sup>2</sup> [http://www.transparency.org/policy\\_and\\_research/surveys\\_indices/gcb](http://www.transparency.org/policy_and_research/surveys_indices/gcb)

<sup>3</sup> *Country Corruption Assessment: Public Opinion Survey*. CRD/TI Armenia, Yerevan, 2002, p. 3

<sup>4</sup> *Ibid*, p. 2

<sup>5</sup> *Corruption Perception in Armenia: 2005 Phone Survey*. CRD/TI Armenia, Yerevan, 2006, p. 2

<sup>6</sup> *Ibid*, p. 3-6

international organizations participated. The majority of participants also said that in the last three years the level of corruption in Armenia has increased. The judiciary, the prosecution system, the police, the traffic police, tax and customs services, the education and healthcare systems, and politics were considered to be the most corrupt.

Regarding the major causes for the spread of corruption, difficult social conditions (low salaries), imperfect legislation, poor law enforcement, absence of political will to fight corruption, an atmosphere of impunity, a lack of freedom of speech and press, tolerance towards corruption within the society, national mentality, a limited access to information, maladministration, etc., were noted. The majority of participants considered anti-corruption initiatives taking place in Armenia as ineffective, though, in opinion of some interviewed state officials, not much time had passed to expect any tangible results.

According to the results of the study published by *Freedom House* in 2006 (see *Nations in Transit* report<sup>7</sup>), corruption at all levels of government has not changed in Armenia since 1999, with the index of corruption equal to 5.75 (on a “1-7” scale, where “7” means absolutely corrupt and “1” – absolutely “clean”).

The 2005 Business Environment and Entrepreneurial Performance Study (BEEPS)<sup>8</sup> revealed that, compared with 2002, corruption became a more serious problem impeding business activities in Armenia. The respondents stated that in 2005 the total volume of bribery substantially increased in comparison with 2002. The situation became worse in the legal environment, where the “rules of the game” are persistently and fundamentally distorted in favor of a small number of privileged businessmen. According to the results of this survey, bribery is widespread in the courts, tax, customs, licensing, public contracting, land allocation and other areas.

The findings of the 2005 study conducted by *Foundation for Small and Medium Business* NGO<sup>9</sup> mainly coincided with the BEEPS results, indicating that Armenian entrepreneurs most often face corrupt practices while registering property rights, requesting

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<sup>7</sup> <http://www.freedomhouse.hu/nit.html>

<sup>8</sup> <http://www.info.worldbank.org/governance/beeps>

<sup>9</sup> *Combating Corruption: SME Sector Perception and Solutions*, Foundation for Small and Medium Business, Yerevan, 2006.

construction permits, going through customs clearance, participating in public tenders, getting credits, meeting tax obligations, speeding up a trial process in the courts, etc.

In 2006, The World Bank published a report entitled *Anticorruption in Transition 3: Who Is Succeeding...and Why?* The report particularly indicates that, though Armenia developed the Anti-Corruption Strategy and its APin 2003 and created a high-level Anti-Corruption Council chaired by the Prime-Minister in 2004, the situation in 2005 was significantly worse, along many dimensions of corruption, compared with 2002<sup>10</sup>.

### **International Anti-Corruption Instruments**

A number of international anti-corruption instruments were developed in mid-1990s, when the international community raised an issue of corruption after realizing how dangerous it is and how much it costs. There are several instruments such as the Organization of Economic Development and Cooperation (OECD) 1997 Convention on Combating Bribery of Foreign Public Officials, 1997 European Union (EU) Convention on the Fight against Corruption Involving Officials of European Communities or Officials of Member States of the European Union, 1999 Council of Europe (CoE) Criminal Law Convention on Corruption, 1999 CoE Civil Law Convention on Corruption, etc. Another instrument is the United Nations (UN) Convention against Corruption, which was first signed on December 9, 2003, which was later declared as International Anti-Corruption Day<sup>11</sup>.

Armenia signed and ratified two of the above mentioned CoE Conventions and became a member of the Group of the European Countries against Corruption (GRECO)<sup>12</sup> in January 2004. Armenia is also involved in the OECD Istanbul Anti-Corruption Action Plan<sup>13</sup> developed for 8 former Soviet republics. On May 2005, Armenia signed the UN Convention against Corruption, but has not ratified it yet. Not much progress, however, has been made through the use of the above international instruments. In a more detailed manner this is discussed in *Monitoring Mechanisms* Section.

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<sup>10</sup> *Anticorruption in Transition 3: Who Is Succeeding... and Why?* The World Bank, 2006, p. 63.

<sup>11</sup> [http://www.unodc.org/pdf/crime/convention\\_corruption/signing/Convention-e.pdf](http://www.unodc.org/pdf/crime/convention_corruption/signing/Convention-e.pdf)

<sup>12</sup> <http://www.greco.coe.int>

<sup>13</sup> <http://www.oecd.org/corruption/acn>

International experience demonstrates that fighting corruption requires a lot of courage, commitment and sacrifice, knowledge, skills and resources, and, finally, consistence and persistence, both at national and international levels. Corruption is a complex phenomenon, and so must be the measures to combat it. Effective anti-corruption policies “shall be based on a comprehensive analysis of the respective causes and types of corruption as well as the nature of the stakes involved. Solutions must be grounded in reality and relate to each part of the affected country's institutional framework”<sup>14</sup>.

One of the holistic approaches to countering corruption is the concept of National Integrity System<sup>15</sup> (NIS), a system comprised of interdependent and interacting basic institutions ("pillars") as well as core tools ("rules and practices") possessed by these institutions to contribute to integrity, transparency and accountability in a society. When it functions properly, the NIS combats corruption as part of the larger struggle against abuse of power, malfeasance and misappropriation in all its forms.

The NIS approach provides a framework with which it is possible to analyze both the extent and causes of corruption in a given national context, as well as the effectiveness of national anti-corruption efforts. By diagnosing the strengths and weaknesses of a particular integrity system, an evaluation based on the NIS can help anti-corruption reforms.

The main NIS “pillars” are the following (see **Figure 1**):

- **Executive**
- **Legislature**
- **Political Parties**
- **Electoral Systems**
- **Supreme Audit Institution**
- **Judiciary**
- **Public Sector**
- **Police and Prosecutors**
- **Public Procurement**
- **Ombudsman**
- **Anti-corruption Agencies**
- **Media**
- **Civil Society**
- **Private Sector**

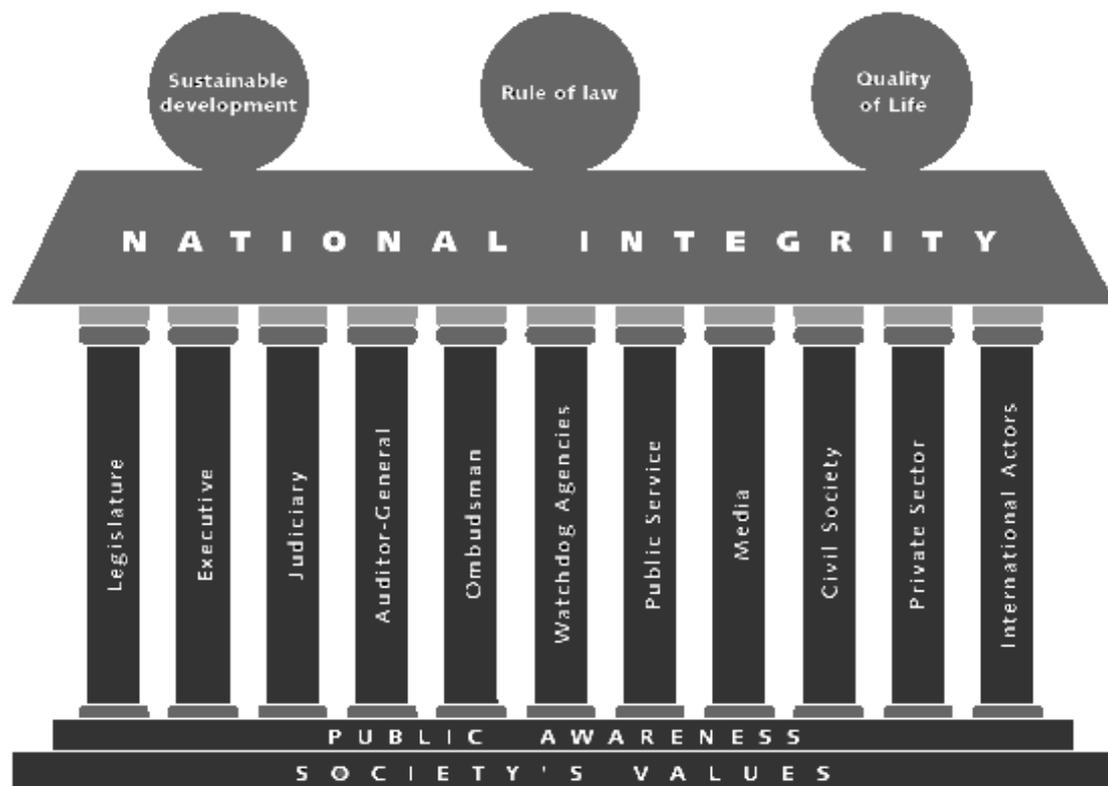
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<sup>14</sup> [http://www.transparency.org/policy\\_and\\_research/ach](http://www.transparency.org/policy_and_research/ach)

<sup>15</sup> [http://www.transparency.org/policy\\_and\\_research/nis](http://www.transparency.org/policy_and_research/nis)

- Regional and Local Government
- International Institutions

**Figure.1. National Integrity System**



These pillars or institutions are strong only if based on public awareness and society's values. Together they make the NIS function effectively and thus ensure sustainable economic growth, rule of law and high quality of life. The more mature and efficient is the country's NIS, the more able it is to achieve sustainable high standards of transparency and accountability and low levels of corruption. On the other hand, while a weakening of one pillar may not necessarily destabilize the whole system, the weakening of several pillars, or the foundation, will.

The NIS Armenia study was published by CRD/TI Armenia in 2004<sup>16</sup>. It revealed that the majority of the country's institutions and instruments are still very weak, which creates large opportunities for the spread of corruption. According to the results of the study, the factors influencing the Armenian NIS can be categorized into two groups: those having a systemic character and those characteristic only to the particular institution. While the first group has an impact on the overall system, the second one has only a limited effect

<sup>16</sup> <http://www.transparency.am/publications/php>

on it<sup>17</sup>. The key systemic factors are: absence of political will, lack of independence and autonomy of institutions, imperfect legislation and poor law enforcement, limited administrative and human resources, low level of participation of the society in the policy making processes, as well as a number of historical and cultural peculiarities.

The publication contains specific recommendations which can help Armenia implement a more efficient anti-corruption policy. They are the following: to review the strategies and programs aimed at increasing the level of transparency and accountability; to promote cooperation and coordination among donors; to make the process of reforms more transparent and accountable; to assess political, economic, social and moral consequences of corruption; to improve legislation and law enforcement; to strengthen institutional capacities; to enhance citizens' participation; to increase public awareness, etc<sup>18</sup>.

Having all above in mind, it should be also noted that even a perfect design of holistic, institutional reform program is not sufficient to ensure the success of anti-corruption initiatives. As mentioned in the TI Anti-Corruption Handbook, “the extent to which political will exists and is maintained throughout the reform process both among representatives of the political and administrative establishment and among civil society and the private sector, will ultimately determine the success or failure of anti-corruption reforms”<sup>19</sup>. Therefore, the creation and strengthening of stakeholder support and the public backing of reform remain a major challenge even if there is true political will to combat corruption.

### **How to Design Anti-Corruption Strategies?**

Development of an Anti-Corruption Strategy (ACS) is one of the means to organize the country's anti-corruption efforts. Though there is no universally applicable type of ACS, still some common trends and approaches can be successfully reviewed and applied while designing and implementing each particular strategy. Thus, it is of vital importance to carry out an examination of successful practices and experiences of other countries before starting the drafting process.

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<sup>17</sup> *National Integrity Systems: Armenia 2003*. CRD/TI Armenia, Yerevan, 2004, pp.5-6

<sup>18</sup> *Ibid*, pp.105-110

<sup>19</sup> [http://www.transparency.org/policy\\_and\\_research/ach](http://www.transparency.org/policy_and_research/ach)

The key approaches in designing and implementing ACSs are presented below. In general, any ACS should be driven by political will, be acceptable for the society of that particular country, be comprehensive and balanced, based on the existing needs, resources and capacity, be targeted, sequenced, measurable, transparent, non-partisan and mindful of all relevant conflict of interest issues<sup>20</sup>.

True political will, devotion to the fight against corruption and leadership skills play a determining role in ensuring the success of anti-corruption reforms. In order to support the needed changes, there should also be leaders from different societal groups, the private sector, etc. As it is noted in the TI Anti-Corruption Source Book<sup>21</sup>, the study of the examples from different countries confirms that political will is one of the most decisive factors to the success in combating corruption.

Donors-driven reforms fail, when they lack local ownership, when the society and the government do not accept the reforms. Societal attitudes towards corruption and public support to anti-corruption reforms are vital for ensuring sustainability and consistency of reforms. If the government involves the civil society representatives in the development, implementation and monitoring of ACS, then it ensures real public participation.

Widespread corruption must be tackled through targeting as many institutions and levels as possible and feasible. However, this approach should be balanced, taking into account available resources and capacity. The country's NIS study is a valuable source for designing ACS. Meanwhile, a balance shall be also provided between preventive, punitive and public support measures.

Each strategy has to meet local needs and take into account the country specifics and realities. First, a diagnostic analysis to identify the level and types of corruption prevalent in a given country should be made, along with an assessment of societal attitudes and behavioral patterns. Findings of both assessments should then be viewed against the country's overall politico-economic situation. International factors (such as a country's commitment to regional treaties or conflict within or outside the country) should be taken into account, as well. Needs assessment helps to have the effective prioritization, sequencing and timing of reforms.

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<sup>20</sup> [http://www.transparency.org/policy\\_and\\_research/ach](http://www.transparency.org/policy_and_research/ach)

<sup>21</sup> Ibid.

ACS must be realistic in terms of the resources and capacity available in the country for its implementation. Typically, governments in transitional economies rely on the only major source of funding – international assistance, which cannot be guaranteed as a long-term means of support and thus is not sustainable. Therefore, it is critical to begin with measures which can realistically be implemented with capacity already available or require limited additional resources. However, this should not be used as a valid excuse for not taking real and consistent actions.

Normally, it is very difficult to measure the success or failure of ACS. Hence, it is essential to have proper monitoring mechanisms to track the changes on a regular basis taking into account all factors influencing the reform process. In addition, concrete evaluation mechanisms shall be in place to measure the impact of a strategy. In the meantime, both perception-based and experience-based tools should be used, while quantitative measurement tools should be accompanied by deep qualitative research and analysis.

Yet, the success of even a perfect ACS depends on a number of other national, historical, political and socio-economic factors. Obstacles to the effective implementation of ACS can be of both domestic and international natures (such as national political environment, institutional framework, geopolitical interests of other states, etc.) Some of those factors are presented below. For more detail, see the NIS Armenia study.

Anti-corruption reforms have a high political price, as there are influential groups in the society (e.g. corrupt businessmen, public officials and high-level politicians), who have a lot to lose as a result of the implementation of reforms and thus will always oppose the changes. Therefore, even if the leadership does possess political will to further anti-corruption reforms, it always faces the risk of losing political power. For this reason, political will is hard not only to create, but also to maintain.

Moreover, ACS could also be abused for political purposes, e.g. for initiating a “witch-hunt” against opposition leaders and activists. Typically, it happens when the government or the ruling political parties start anti-corruption reforms during election campaigns or under the pressure of international donor community, but without any intention to seriously fight corruption.

As it has been already mentioned, the absence of the desire of the civil society to support reforms can also hamper their effectiveness. On the other hand, if the society does not trust the authorities, then it will be difficult to expect any public support to reforms. Under such conditions, only strong evidence of political commitment to reforms (e.g. arrests, punishment and dismissal of high ranking state officials) could, to some extent, rehabilitate public confidence.

The institutional structure of the country can also play a crucial role in anti-corruption reforms. Weak institutions and insufficient financial, technical and human capacities could undermine the reforms initiated in the country. However, insufficient institutional capacities in delivering public services and ensuring internal control are not always undefeatable obstacles for reforms. Better management of public resources and their effective allocation could originate additional resources, which could be directed towards the implementation of anti-corruption reforms. Moreover, apparent dedication to the fight against corruption and desire to further that fight may ensure support from other sources, for example, donors, private sector, etc.

The lack of readiness and preparedness of the bureaucratic machine combined with the absence of incentive mechanisms can impede the implementation of reforms, as well. Thus, it is important to increase the level of awareness and qualification of state officials as well as their motivation to support reforms.

When a country heavily depends on a donor's expertise and financial resources to implement reform, this can seriously endanger the success and sustainability of the reform process. The imposition of unrealistic expectations and conditionalities caused by the lack of understanding of country's specifics and existing capacity is seen as one of the main reasons of the failed reforms. The instances of breaching laws and ethical principles by representatives of donor countries can also undermine the credibility of proposed reforms in the recipient country.

Finally, the involvement of foreign donors in the design and implementation of ACS, which is not accepted by the public, may lead to the continued public distrust of anti-corruption reforms as culturally "alien" concepts brought from the West. Though well-designed and coordinated international assistance can be beneficial to building capacity

and introduce best practices, it must be provided only in the case of obvious (not fictitious) political will, local ownership of and commitment to reform.

## **CHAPTER II. ANALYSIS**

### **What to Analyze?**

If a particular country applies a systemic approach to fight corruption, which implies simultaneous implementation of economic, social and political reforms in as many interrelated areas as possible, then the country's anti-corruption policy should include the following components:

- a) **a policy document** (normally, it is ACS), which explicitly spells out the ideology of the national anti-corruption policy and links all its components in one comprehensive system;
- b) **an action plan** aimed at the implementation of anti-corruption policy measures;
- c) international and local **monitoring mechanisms**;
- d) **an institutional framework** (special anti-corruption commission or agency overseeing and coordinating the anti-corruption policy implementation, as well as all structures responsible for the implementation of anti-corruption measures);
- e) **a legal framework** comprised of the laws containing explicit or implicit provisions for preventing and detecting corruption.

This analysis mainly focuses on three components of the anti-corruption policy in Armenia, namely, ACS and its Action Plan (AP), along with international and domestic monitoring mechanisms.

Before a discussion of the above-mentioned mechanisms starts, it is necessary to introduce the criteria against which the Armenian anti-corruption policy is assessed. It has been already noted in Chapter I that effective ACS and its AP should ensure a balance of three major components of the effective anti-corruption policy - preventive, detective and public support. These policy documents should be comprehensive, based on real needs, resources and capacities, have a clear sequence of the targeted activities and measurable outcomes, and must be implemented transparently, considering all possible conflicts of interests.

Though there are different approaches to the fight against corruption (e.g. “criminal and administrative control”, “small government”, “public integrity”, etc.), CRD/TI Armenia considers the NIS approach developed by TI in 1996<sup>22</sup> as the most effective one. The assessment of the Armenian anti-corruption policy presented below is based on the NIS approach.

## **Anti-Corruption Policy in Armenia**

The first official document referring to corruption in Armenia was the Decree NH-151 of President Levon Ter-Petrosyan on Strengthening the Fight against Abuse of Power and Corruption signed on September 1, 1992. This Decree was aimed to regulate the recruitment of state employees and eliminate abuse of power in the recruitment processes. However, no appropriate steps were taken to enforce the Decree.

In 1999, the Prime Minister Vazgen Sargsyan requested the World Bank assistance for drafting a national ACS. After the assassination of the Prime Minister and other senior officials in October 27, 1999, this process was abandoned.

By the Decision N44 of the Prime Minister on January 22, 2001, a governmental commission was established to coordinate the development of anti-corruption programs of the Armenian Government. The Commission comprised of a number of high-ranking officials, including the Prime Minister. With the assistance of The World Bank, a group of local and foreign experts was formed to draft a national ACS.

In February 2003, the ACS draft was submitted for expert review to the Joint Anti-Corruption Task Force, which consisted of representatives of international organizations functioning in Armenia. In the opinion of the members of the Task Force, the document needed revision. Regardless, the review and adoption of ACS was postponed by authorities because of the Presidential and Parliamentary elections that took place in Armenia in February and May 2003, respectively.

Right after the elections and the formation of a new Coalition Government in June 2003, the ACS Program was finalized and approved by the Decision 1522-N of the Government of Armenia on November 6, 2003. The Armenian ACS and its AP entered into force on

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<sup>22</sup> [http://www.transparency.org/policy\\_and\\_research/nis](http://www.transparency.org/policy_and_research/nis)

December 10, 2003, after being ratified by President Robert Kocharyan. It should be mentioned though that the Government revised and adopted ACS “behind close doors”, not taking into consideration opinions of other stakeholders.

By the Decree of the President of Armenia on June 2004 the Anti-Corruption Council (ACC) and its Monitoring Commission (MC) were established. ACC was formed to support the implementation of the anti-corruption policy of the Armenian Government. The status, composition and functions of these structures are presented in *Institutional Framework* Section of this Chapter.

The Armenian ACS and its AP are incorporated in one document (under the same title). The goal of ACS is to overcome corruption, elimination of its causes, form a healthy moral and psychological environment in the country, which will, in its turn, promote the establishment of democratic institutions, civil society and the rule of law, free competitive market, economic development and reduction of poverty<sup>23</sup>.

It is expected that the ACS Program will be completed in 2007, but its AP is to be mostly implemented until the end of 2006. In its April 2006 meeting, ACC decided to publish in the media the draft of the reviewed ACS prepared by MC and take into account the suggestions to be made during public discussions on the draft. It was also agreed to assign respective ministries and agencies to develop a new anti-corruption program for the coming three years<sup>24</sup>.

There is no official information on to what extent the new program will draw from the results of the assessment of the effectiveness of the current one and who will carry out such assessment. As of August 2006, the draft of the new ACS was not published or discussed publicly, though it was posted on the Government web-site<sup>25</sup>.

## **The Armenian Anti-Corruption Strategy**

Recalling the above-mentioned criteria, it could be argued that, in the first place, the public does not accept the Armenian ACS Program, because it has been developed without public participation. The document is neither comprehensive, nor balanced; and it

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<sup>23</sup> *Anti-Corruption Strategy and Its Action Plan*. Yerevan. 2003, pp. 5-6.

<sup>24</sup> *Hayastani Hanrapetutyun* daily, April 22, 2006

<sup>25</sup> [http://www.gov.am/armversion/premier\\_2/primer\\_council\\_6hashvet.htm](http://www.gov.am/armversion/premier_2/primer_council_6hashvet.htm)

focuses on changing the legislation rather than enforcing the law or punishing the perpetrators of corruption. It is worth noting that the Armenian Government is exclusively responsible for almost all measures listed in AP, which substantially restricts the involvement of other parties.

ACS is not based on real needs, resources and capacities. It contains measures, which are already included in other programs (e.g. Poverty Reduction Strategy Program, Public Sector Reform Program, etc.). Meanwhile, educational, public awareness, public participation and monitoring measures are not paid due attention; and they assume assistance from international donor organizations.

No serious monitoring and evaluation mechanisms are available in ACS and AP. The assessment of the implementation of the AP measures, as well as that of international obligations of Armenia in the field of anti-corruption, are mainly based on reports from the governmental bodies and do not assume their supplementation with data from another, independent sources.

ACS provides a definition of corruption and its causes and underlines directions and measures to fight against corruption in Armenia. However, not all problems and manifestations of corruption are included in it, for example, corruption in the army, the earthquake zone, the construction and other problematic areas. The devastating effects of corruption on social, economic and political development of the country are not assessed either.

According to ACS<sup>26</sup>, the major instruments in the fight against corruption in Armenia are the establishment of a system of fair governance based on the rule-of-law, disclosure of corrupt practices and holding liable the persons involved in corruption, and promotion of public awareness and development and implementation of the codes of conduct and ethical norms for state officials. The measures also include transparency in holding liable public officials involved in corrupt practices, internal and external audit of state institutions, improved mechanism of their financial management, better legal acts, and Armenia's joining to international conventions on the fight against corruption.

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<sup>26</sup> *Anti-Corruption Strategy and Its Action Plan*. Yerevan. 2003, pp. 15-18

At a first glance, it seems that ACS adopts a systemic and balanced approach to combating corruption. For instance, it is explicitly mentioned in it that the fight against corruption incorporates three major directions: 1) rooting the understanding of the dangerous nature of corruption and its consequences for society; 2) preventing of corruption; and 3) promoting the rule of law aimed at protecting citizens' rights and interests<sup>27</sup>. Another evidence of attempts to apply a comprehensive approach could be the fact that ACS includes several areas such as the economic sphere (which covers the tax system, customs system, health, education and state finance, state property and privatization), political corruption, state governance, law enforcement bodies, and the judicial system.

Meanwhile, a more scrupulous analysis reveals that ACS does not fully incorporate the three main components of the effective anti-corruption policy (prevention, detection and public support). This is particularly evident with respect to detection and, to some extent, public support components. Many internationally recognized detection-related provisions, such as improving the imposition of criminal and administrative sanctions and the mechanisms of holding persons liable for false statements of their income and property, are absent in the Armenian ACS. Though serious emphasis is put in ACS on embedding the concept of respect to law in public perception, it is not clear how this could be achieved. If preventive actions are not accompanied by effective detection of corruption crimes and punishment of their perpetrators (about which the public should be informed), there will be no public support for anti-corruption efforts of the Government.

In the sub-Section devoted to “the promoting the rule of law (see pp. 25-26) ACS first of all envisages improvement of anti-corruption legislation, mainly through elimination of controversies between primary and secondary legislation, expert analysis of the draft legal acts for revealing corruption risks and promotion of civic participation in the legal drafting processes. While ACS recognizes the importance of law enforcement, the only specific solution it gives is to better inform the public about the adopted legislation.

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<sup>27</sup> *Anti-Corruption Strategy and Its Action Plan*. Yerevan. 2003, p.19

The same approach dominates in the *Law Enforcement Bodies* Section (see pp. 43-44). Though there are references to the need of making more effective penalties for corruption offences, clarification of duties and responsibilities of law enforcement bodies (the police, the prosecution and the national security service) and regulation of their cooperation, it is still not clear how this will be ensured. ACS only mentions that these issues will be regulated via adoption of the Law on Operational-Investigative Activities (which, in fact, is not adopted yet).

ACS also envisages improving technical equipment, solving the salary and social protection problems of the employees of law enforcement bodies, increasing the level of their professional qualification and developing codes of conduct. However, nothing is said about the mechanisms of control over law enforcement bodies. The same approach is applied regarding the judicial system. Even if ACS states that an independent judicial system is one of the main instruments in the fight against corruption (see p. 45), it does not provide any solution on how to ensure such independence.

ACS does not emphasize the importance of an independent control and audit institution in the fight against corruption. The *Political Corruption* Section is very weak. It refers to problems connected with political parties, proxies, voting lists, but not with the use of administrative resources in favor of certain individual candidates and parties during elections. For whatever reasons, the system of local self-governance is included in this Section, rather than a separate Section should be devoted to the problems of corruption in this area.

Regarding the problems of the economic realm, the corresponding Section of ACS includes only tax and customs services, education and public health systems, state finances, real property and privatization. The proposed measures to fight against shadow economy do not directly relate to the widespread practices of protectionism, privileges for certain businessmen, conflict of interests, generation of income and property of public officials acquired through abuse of their power, etc.

Compared with the detection component, the public support component is better presented (see pp. 20-22), since ACS recognizes the importance and necessity of involving representatives of civil society in the ACS monitoring. It also emphasizes the role of the mass media in conveying the strategy to the public and implanting intolerance

towards corruption. It is particularly stressed in ACS that participation of civil society organizations in parliamentary hearings is important.

It should be mentioned in this regard that Armenia witnesses rare cases of successful civil society interference into the legal drafting and the NGO participation in developing and implementing policy had in most cases a “formal” character. ACS does not propose specific mechanisms to really promote civic participation in the implementation of neither preventive measures nor measures ensuring the rule of law. In the meantime, there are no measures to introduce anti-corruption curricula in the schools and universities, as well as to conduct academic research on corruption and anti-corruption issues.

### **The Strategy Action Plan**

Typically, anti-corruption AP includes measures, which should ensure effective implementation of ACS. The Armenian ACS AP incorporates about 100 measures (including sub-measures)<sup>28</sup>. The largest number of measures (44) relates to the economic sphere, 7 to the political sphere, 13 to public administration, 7 to law enforcement bodies, and 10 to the judicial system. The overwhelming majority of the measures are planned for implementation in the period from December 2003 to the end of 2006. Six measures will be implemented periodically (see Points 1.2, 2.2, 2.3, 4.11, 7.2 and 8.4 of AP).

Four measures are aimed to bring the Armenian anti-corruption legislation into compliance with international standards. Certain measures include adoption of ACS and AP, regular analysis of the causes of corruption in various areas and the development of specific long- and short-term programs in the framework of ACS. Another group of measures is aimed at promoting better public access to legal acts through the website of the Armenian Government, as well as revealing corruption risks through expert analysis of the draft legal acts and already adopted laws.

The list of measures does not fully imply the achievement of the key objectives and the implementation of main provisions of ACS. In particular, AP involves measures related to the banking sphere (Points 4.2–4.5), environment protection (Points 4.28–4.30), problems in business environment (Points 4.31–4.34), the licensing system (Point 4.35), as well as

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<sup>28</sup> *Anti-Corruption Strategy and Its Action Plan*. Yerevan. 2003, pp. 51-68

to creation of a unified database on the usage of foreign loans and credits and its regular monitoring (Point 4.39), which are not presented in ACS. On the other hand, AP does not include measures on the topics mentioned in ACS such as financing of political parties or political corruption.

In addition, AP does not follow all main directions underlined in ACS. This makes AP to mainly be comprised of prevention measures. There are only 3 measures, which are explicitly of detection nature. These are: “Making liability for tax evasion stricter” (Point 4.9), “Strengthening the internal audit mechanisms of the State Tax Service” (Point 4.11) and “Legally regulating operational-investigative activities” (Point 7.5).

Seven measures can be qualified as public support measures: “Regular analysis and monitoring of the causes and phenomena of corruption in different areas” (Point 1.2); “Development of long- and short-term specific projects in the framework of ACS” (Point 1.3); “Development of anti-corruption educational programs for the public” (Point 5.4); “Establishment of the group of monitoring of ACS” (Point 5.5); “Creation of a system of corruption monitoring indicators (Point 5.6); “Development and implementation of training programs for the members of the monitoring group” (Point 5.7) and “Establishment of public relations departments in the ministries” (Point 6.10).

Overall, the AP measures are related to development and adoption of legislative and sub-legislative acts, and only 21 measures are of different nature. Considering the practice of poor law enforcement in Armenia, it is surprising that there are no measures ensuring the enforcement of the newly adopted laws, though sub-Section 3.3 of Chapter I of ACS emphasizes the importance of law enforcement. Instead, sharing information with the public and providing control over the enforcement of legal acts are mentioned as necessary conditions to guarantee law enforcement (see p. 26 of ACS). Though, there is no information on concrete mechanisms to be used for this purpose.

Participation of other interested parties in drafting laws and regulations is also ignored, while ACS underlines the significance of the NGO participation in legal drafting. Although the fight against corruption implies transparency and participation, NGOs are mentioned in AP as responsible for implementation of only 6 measures (see Points 1.2, 1.3 and 5.4-5.7), which are concerned with awareness raising, educational and monitoring activities.

ACS and AP have no specific mechanisms ensuring “the state-civil society” relationship. For example, even if ACS mentions the importance of introducing mechanisms of public complaints (see p. 29), there is only one relevant measure in AP (see Point 4.10), which is connected with protecting the taxpayers’ interests. It is also not clear how the public relations departments of the ministries are going to ensure the control of public service delivery (see Point 6.10). ACS highlights parliamentary hearings to be the best form of public participation, which is, in fact, applicable in established democracies, but not in today’s Armenia.

AP does not include specific measures on detection and punishment of corrupt practices and mechanisms of making related information public, whereas the importance of those two issues is emphasized in the Sub-Section 2 of Chapter I of ACS (see pp. 15-18). Regarding the issues of disclosing corruption-related abuses through internal control and publicizing relevant data, one may assume that AP, perhaps, envisages certain measures of that nature in the area of tax administration (see Point 4.11). It is hard to understand however why such control is not planned for customs or other problem areas. Finally, there are only 2 measures with regard to local self-government (Points 4.40 and 6.3), which are connected to the budget monitoring and establishment of municipal service.

According to the reference of the Anti-Corruption MC as of December 21, 2005<sup>29</sup>, 73 measures and sub-measures have already been implemented, 6 have not been implemented or have been implemented partially, 15 are in the process of implementation and 4 are being implemented periodically (e.g. awareness raising and educational activities). The majority of all implemented measures refer to either adopting or drafting legal acts. The reference does not give a satisfactory explanation why the mentioned above 6 measures have not been implemented or implemented only partially, and why some measures are still in process of implementation, though the deadlines of their implementation have been already passed.

## **Monitoring Mechanisms**

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<sup>29</sup> [http://www.gov.am/armversion/premier\\_2/primer\\_council\\_6hashvet.htm](http://www.gov.am/armversion/premier_2/primer_council_6hashvet.htm)

ACS and its AP contain provisions and measures to ensure international and local monitoring. Local monitoring measures are as follows: “Regular analysis and monitoring of the corruption causes and manifestations in various areas” (Point 1.2), “Establishment of the ACS monitoring group” (Point 5.5), “Creation of a system of corruption monitoring indicators (Point 5.6), and “Development and implementation of training programs for the monitoring group members” (Point 5.7).

The task of conducting and coordinating local monitoring is assigned to MC under ACC. The functions of both ACC and MC are discussed in the *Institutional Framework* Section in more detail. It should be also noted that last year the monitoring methodology to reveal corruption risks in the areas of education and public was developed in the framework of United Nations Development Program project titled “Support to the Civil Society Anti-Corruption Initiatives”. Based on the developed methodology, the civil society groups established in 7 Marzes (Provinces) of Armenia, conducted pilot monitoring, the results of which were submitted to a special Task Force with the aim of making relevant policy recommendations. The recommendations are planned to be finalized by the end of 2006.

As mentioned in the previous Section, AP includes 4 measures aimed at bringing the Armenian legislation into compliance with international standards. According to those measures, Armenia had to adopt the principles provided in a number of international anti-corruption documents. These documents are: The 1996 Action Plan on the Fight against Corruption, adopted by the Council of Ministers of EU, “20 Guiding Principles in the Fight against Corruption” (Resolution (97)24 adopted by the Council of Ministers of EU on November 6, 1997, Proposals on the Creation of the Special Group of Countries against Corruption (GRECO) adopted at the Valetta and the Prague conferences of the Ministers of Justice of EU states in 1994 and 1997, respectively.

Additionally, it was envisaged to sign and ratify the 1999 CoE Criminal Law Convention and the 1999 CoE Civil Law Convention, which were ratified by the Armenian National Assembly (NA) on June 8, 2004 and December 8, 2004, correspondingly. Armenia also signed the 2003 UN Convention against Corruption, which is still not ratified by the NA. All the noted documents include provisions of international monitoring of anti-corruption policies in the states, which ratified the

mentioned conventions. Therefore, Armenia is subject to international monitoring to evaluate its compliance to international anti-corruption standards.

It has already been stated in Chapter I that Armenia joined GRECO and the OECD Anti-Corruption Network (ACN) Istanbul Action Plan. Though the implementation of the GRECO and OECD recommendations is based on the voluntary agreement, the process of their implementation by the member states is under strict control.

The OECD/ACN Istanbul Action Plan includes Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Russia, Tajikistan and Ukraine. It is directed to improving anti-corruption policies of the participating countries' through the implementation of the recommendations developed by international experts. Recommendations for Armenia were developed and adopted during the Paris Meeting during June 15-18, 2004. The Armenian Government regularly reports to the ACN Secretariat on the implementation of the recommendations (the country's reports were submitted on December 2004, June 2005, October 2005 and June 2006).

In total, there are 24 OECD recommendations, which are categorized into three groups (pillars): 1) "National Anti-Corruption Policy and Institutions" (7 recommendations); 2) "Legislation and Criminalization of Corruption" (8 recommendations); and 3) "Transparency of Civil Service and Financial Control Issues" (9 recommendations). The deadline for implementation of all recommendations will be finalized in the end of 2006 or the beginning of 2007.

CRD/TI Armenia observes the process of implementation of the OECD recommendations. As the results of monitoring indicate, *Recommendation 3* has not been completely implemented. It refers to consolidating efforts of law-enforcement bodies in the fight against corruption and ensuring cooperation among them. The same is true for *Recommendation 5*, which refers to the necessity of continuing efforts in the area of joint corruption-specific trainings for prosecutors, judges, police and other law enforcement officials and provision of adequate resources for the enforcement of anti-corruption legislation.

In June 2006, when the last update on Armenia's report was submitted for review by the ACN experts<sup>30</sup>, neither the Police, nor the National Security Service established specialized anti-corruption units within their structures. Moreover, a very important Law on Operational-Investigative Activities, which would determine the functions of each law-enforcement agency and coordinate their activities, has not been passed. No actions were taken "to minimize possible improper influence of or interference into the work of law enforcement officials investigating corruption offences".

*Recommendation 6* regards conducting awareness raising campaigns and organizing "...training for the relevant public associations, state officials and the private sector about the sources and the impact of corruption, about the tools to fight against and prevent corruption, and on the rights of citizens in their interaction with public institutions". Nevertheless, the mentioned events were not specified in the report and CRD/TI Armenia (being a member of the Anti-Corruption MC) has no information about any summarization of the "results of monitoring".

As to *Recommendation 8*, the Armenian authorities did not take any steps to criminalize trading in influence, while the mentioned amendments to the Armenian Criminal Code adopted in May 2005 are more relevant to *Recommendation 14*, rather than *Recommendation 8*. In the case of *Recommendation 9*, it deals with the review of "the existing levels of the statute of limitations for corruption offences to ensure that current relatively low time limits for basic bribery offences do not hinder effective detection, investigation and prosecution". Armenia's report refers only to the amendments adopted in the Civil Code. However, no changes were made in the Criminal Code, which primarily regulates the statute of limitation issues.

*Recommendation 12* is aimed at bringing the Armenian legislation regarding the confiscation of proceeds into compliance with international standards. Meanwhile, a concept of confiscation from third persons is still not included in the Armenian criminal law concept. And, the amendments mentioned in the report are related to the money laundering cases only.

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<sup>30</sup> <http://www.oecd.org/corruption/acn>

*Recommendation 17* requires adoption of "...a uniformed Code of Ethic/Code of Conduct for Public Officials modeled on international standards (e.g. such as CoE Model Code of Conduct for Public Officials) as well as specific codes of conduct for professions particularly exposed to corruption, such as police officers, judges, tax officials, accountants, etc.", as well as an introduction of "...disciplinary liability for the breach of codes of conduct". Though disciplinary liability for the breaches of codes of conduct is included in the codes of conduct adopted in Armenia, they still need to be specified.

With respect to *Recommendation 23*, Armenia's report on implementation of the OECD recommendations refers to the measures included in the ACS AP aiming at the improvement of the relationships between public officials and citizens, as well as the procedures regulating access to information. It should be noted though that the report does not clarify which ministries and agencies established public relations departments and what specific functions they have. There is also a need for specification on when and to what media outlets the Mayor of the Yerevan City gives information regarding his decisions related to land allocation and land alienation. According to CRD/TI Armenia, such information has never appeared in newspapers or on TV.

Finally, a special attention should be paid to *Recommendation 11*, which is not possible to implement in Armenia in the nearest future, considering the discrepancy between the national and international legal systems. Implementation of this recommendation requires defining criminal liability for corruption offences committed by legal persons, whereas, according to the Armenian criminal law concept, a physical, not a legal person should be held liable for criminal offences. Thus, in the opinion of local legal experts, the said concept of the Armenian criminal law should be reviewed to ensure the implementation of the given recommendation.

Therefore, it is crucial to discuss an issue of applicability of recommendations with local experts before making any decision on what should be recommended. In fact, to guarantee effective application of international instruments it is necessary to maintain permanent and impartial control over the implementation of Armenia's international obligations. Otherwise, it would seem that Armenia ratifies international conventions and thus takes certain obligations on the fight against corruption, which are unlikely to be implemented. If the existing political, legal, institutional or other serious obstacles are not

taken into account, then the expediency and efficiency of Armenia's membership in various international structures becomes questionable.

Going back to the GRECO processes, it should be noted that Armenia's first Evaluation Report was adopted on March 10, 2006. It combined the first and second round assessments in attempts to assess the efficiency of the implementation of the anti-corruption measures carried out by the Armenian Government. The Report provides 24 recommendations directed to improve the current situation in the field of anti-corruption<sup>31</sup>. The deadline for the implementation of the GRECO recommendations is September 30, 2007.

The majority of the GRECO recommendations are of preventive and detective nature and mainly (20 out of 24 recommendations) aim at adopting or improving the laws and regulations. Training of public officials and auditors is foreseen by 6 recommendations, while *Recommendation 1* requires conducting relevant studies to reveal a more complete picture on the phenomenon of corruption and its manifestations in Armenia. The public participation component is included only in *Recommendation 2*, which points to a necessity to inform the public on a regular basis about anti-corruption measures and results of their implementation. It should be also mentioned that the OECD *Recommendations 1, 5, 8, 10, 12, 17 and 20* completely or partially coincide with the relevant GRECO recommendations.

## **Institutional Framework**

The Armenian law-enforcement agencies dealing with corruption crimes are the prosecution system, the Police and the National Security Service. Most of the corruption-related crimes such as bribery, abuse of power, misuse of power, forgery, etc., are investigated by the prosecution bodies. They also coordinate investigative activities of the Police and the National Security Service in cases of corruption crimes. There are neither special bodies, nor specific legal or procedural instruments for investigating and prosecuting corruption offences.

Instead of creating new specialized anti-corruption institutions, Armenia adopted another approach, which assumes the strengthening of existing law-enforcement bodies. After the

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<sup>31</sup> <http://www.greco.coe.int/evaluations>

adoption of ACS, a special Anti-Corruption Department was established in the Office of the Prosecutor General (see the Order N10 of the Prosecutor General issued on April 30, 2004).

Already mentioned ACC and MC were established by the Decree NH-100 of the President of Armenia issued on June 10, 2004. ACC is headed by the Prime Minister and is comprised of the NA Deputy Speaker, the Head of the Staff of the Government, the Minister of Justice, the Prosecutor General, the Adviser to the President on anti-corruption matters (from June 2006, this position is occupied by the Assistant to the President<sup>32</sup>), the Chairman of the Central Bank, the Chairman of the State Commission for the Protection of Economic Competition, the Chairman of the Chamber of Control and the Head of the Oversight Service under the President of Armenia.

The main functions of ACC are: coordinating the implementation of ACS, discussing the proposals submitted by MC, analyzing the performance of those responsible for the ACS implementation, organizing and coordinating development and implementation of anti-corruption programs of the ministries, etc. According to the Point 1 of ACC Charter<sup>33</sup>, this body “supports the implementation of the anti-corruption policy of the Republic of Armenia”. This provision means that ACC is not among the implementers of such policy, but only supports those institutions which are responsible for implementation of ACS.

Certain ACC related information is available on the web-site of the Armenian Government ([www.gov.am](http://www.gov.am)). As of August 2006, the following materials can be found in “Prime-Minister/Anti-Corruption Council” section: composition of ACC and minutes of its meetings, the references from 7 governmental institutions on the implementation of the AP measures, reference on the implementation of the overall AP, a list of measures aimed at implementation of the GRECO recommendations, statistical data on the corruption offences for 2005, as well as the draft of the new ACS.

Considering the importance of the fight against corruption, it is hard to understand why the Charter of ACC<sup>34</sup> does not require detailed information about its activities be accessible to the general public. In fact, the public is informed about ACC only through

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<sup>32</sup> See the Decree NH-144-N of the President of the Republic of Armenia from June 21, 2006.

<sup>33</sup> [http://www.gov.am/armversion/premier\\_2/primer\\_council\\_6kanon.htm](http://www.gov.am/armversion/premier_2/primer_council_6kanon.htm)

<sup>34</sup> Ibid.

the reports on its meetings published in newspapers and aired by TV channels, and minutes of the meetings posted on the government web-site. It should be mentioned the information on the web-site is not regularly updated (for instance, as of August 2006 no minutes for the year of 2006 were made available).

The fact that ACC consists of high-ranking officials representing state institutions perceived by the public as highly corrupt<sup>35,36</sup> does not promote public confidence towards this structure. In 2004-05, ACC held only 4 meetings, and in 2006 (as of the end of August) only one meeting, whereas according to its Charter (see Point 5) it should have at least two regular meetings quarterly. This is additional evidence that questions the availability of true political will to fight corruption, as a minimum to establish efficiently functioning structures to ensure real coordination of and control over implementation of anti-corruption policy.

The same is true in the case of MC, which was headed until May 2006 by Bagrat Yesayan, Adviser to the Armenian President on anti-corruption matters. After his appointment to a new position as the Deputy Minister of Education and Science his previous position was not filled. Interestingly, on June 21, 2006, the President Decree NH-100 N on June 10, 2004 replaced the title “Advisor to the President” by “Assistant to the President” in the ACC composition. Nevertheless, no respective replacement took place in the composition of MC.

Along with the Head of MC, the following members comprise this structure: one representative from the NA factions and groups, Head of the Armenian delegation in GRECO, Secretary of the Commission on Public Sector Reform, a representative of the Government Staff, as well as NGO representatives. The latter are presented through the Chairwoman of CRD/TI Armenia and by one NGO appointed by each NA faction and group.

CRD/TI Armenia’s representative has a status of a permanent member of MC. Other NGO representatives are rotated on an annual basis through nomination by the corresponding NA faction or group. As the opposition factions (Ardarutyun bloc and National Unity party) boycott MC, the latter is lacking 4 members, without the

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<sup>35</sup> *Corruption Perception in Armenia: 2005 Phone Survey*. CRD/TI Armenia, Yerevan, 2006; *Fight against Corruption in Transition Countries: Who Succeeded?... and Why?* The World Bank Report. 2006

<sup>36</sup> [http://www.transparency.am/media\\_archive.php](http://www.transparency.am/media_archive.php)

representatives of 2 opposition factions and 2 NGOs nominated by them. Meanwhile, it is not clear why the membership of NGOs in this structure should depend on the nomination of political parties and parliamentary groups.

MC has the following functions: to monitor the implementation of ACS and ministerial anti-corruption programs by involving the civil society and the media, to study and summarize international and local experience in anti-corruption, to monitor the implementation of Armenia's international obligations in the field of anti-corruption and to carry out expert analysis to reveal possible corruption risks in legal drafts<sup>37</sup>.

MC does not carry out consistent monitoring, since it limits itself only by collecting statistics on corruption offences (see the 2005 data on government web-site<sup>38</sup>) and checking the implementation of the AP measures based on the information received from responsible state institutions. All complaints and appeals received by the Head of MC are normally sent to corresponding bodies, frequently even to those which are blamed by applicants for corruption. No serious work has been conducted so far with regard to studying and summarizing international and local experience in the area of anti-corruption. It is mainly limited by participation of some MC members in conferences and meetings as well as familiarization with some expert reports.

The implementation of international obligations within the framework of anti-corruption conventions signed and ratified by Armenia is also checked based only on the reports of corresponding government agencies. Though the implementation of expert analysis of corruption risks in the legal drafts is delegated by ACS AP to the Ministry of Justice, together with other government bodies (see Point 2.2 of AP), this function is also extended to MC. However, special expert knowledge is required to conduct such analysis, which this body apparently does not have.

Twelve working groups consisting of representatives of NGOs were established under MC. Their activities are coordinated by the MC members. The groups were entitled to trace the implementation of AP in certain areas (for example, financial, educational, public health, environment, transportation, etc.) and their work plans for 2005 were developed and submitted to MC. Nevertheless, after having few meetings the groups' activities were frozen.

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<sup>37</sup> *Official Bulletin of the Republic of Armenia*, 30(329), June 9, 2004

<sup>38</sup> [http://www.gov.am/armversion/premier\\_2/pdf/prog\\_d\\_2.pdf](http://www.gov.am/armversion/premier_2/pdf/prog_d_2.pdf)

Generally speaking, MC does not possess adequate financial, administrative and other resources to carry out serious monitoring, which in its turn impedes the promotion of the fight against corruption in Armenia. Moreover, since December 2005 not a single MC meeting has been held, which is a direct violation of its Charter<sup>39</sup>, according to which the meetings should be held “at least once a month”. This proves that if there is to be real fight against corruption in Armenia, then a more favorable institutional framework (e.g. well-functioning bodies with more powers and better resources) needs to be created for the implementation and monitoring of ACS.

On May 20, 2006, the daily newspaper *Aravot* published information titled “It was not possible to achieve more”<sup>40</sup>. Mr. Bagrat Yessayan evaluated his own performance in the field of anti-corruption in the following manner: “With the tools ... possessed by the Advisor to the President, the Member of ACC and the Head of MC it was not possible to expect more. ...In the framework of the model adopted for the fight against corruption, it was impossible to achieve more”.

### **Anti-Corruption Legislation**

The legal anti-corruption framework existed even before the adoption of ACS<sup>41</sup>. The following codes and laws (important from the NIS viewpoint) were passed before December 2003:

1. The Criminal Code (enforced on August 1, 2003);
2. The Criminal Procedural Code (enforced on January 12, 1999);
3. The Civil Code (enforced on January 1, 1999);
4. The Civil Procedural Code (enforced on January 1, 1999);
5. The Code on Administrative Violations (enforced on June 1, 1986);
6. The Customs Code (enforced on August 9, 2000);
7. The Electoral Code (enforced on February 28, 1999);
8. The Law on Civil Service (enforced on January 9, 2002);
9. The Law on Constitutional Court (enforced on January 11, 1998);
10. The Law on Council of Justice (enforced on November 26, 1995);

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<sup>39</sup> [http://www.gov.am/armversion/premier\\_2/pdf/prog\\_d\\_2.pdf](http://www.gov.am/armversion/premier_2/pdf/prog_d_2.pdf)

<sup>40</sup> [http://www.aravot.am/2006/aravot\\_arm/May/20/aravot\\_index.htm](http://www.aravot.am/2006/aravot_arm/May/20/aravot_index.htm)

<sup>41</sup> Though several changes and amendments were made in the majority of the presented laws, they are not introduced in this chapter.

11. The Law on the Court System (enforced on June 18, 1998);
12. The Law on Customs Service (enforced on August 3, 2002);
13. The Law on Declaration of Assets and Income of High State Officials (enforced on September 1, 2001);
14. The Law on Freedom of Information (enforced on October 15, 2003);
15. The Law on Human Rights Defender (enforced on January 1, 2004);
16. The Law on the Status of Judges (enforced on January 12, 1999);
17. The Law on Licensing (enforced on August 8, 2001);
18. The Law on Local Self-Government (enforced on June 21, 2002);
19. The Law on Mass Media (enforced on February 8, 2004);
20. The Law on NA Chamber of Control (enforced on May 29, 1996);
21. The Law on NA Procedures (enforced on April 12, 2002);
22. The Law on the Police (enforced on August 1, 2003);
23. The Law on Police Service (enforced on January 1, 2003);
24. The Law on Political Parties (enforced on November 15, 2002);
25. The Law on Prosecution (enforced on January 12, 1999);
26. The Law on TV and Radio (enforced on November 18, 2000).

These are the laws, which entered into force after the adoption of ACS:

1. The Law on Combat against the Legalization of Income Received through Criminal Means and Financing of Terrorism (enforced on March 22, 2005);
2. The Law on Foreign Currency Regulation and Control (enforced on June 28, 2005);
3. The Law on the State Payment System (enforced on June 28, 2005)<sup>42</sup>;
4. The Law on Graduate and Post-Graduate Education (enforced on March 2, 2005);
5. The Law on State Inspection on Environment Protection (enforced on May 28, 2005);
6. The Labor Code (new version enforced on December 31, 2004);
7. The Law on Auditing System (enforced on July 24, 2004);
8. The Law on Procurement (enforced on January 1, 2005);
9. The Law on Financial Control (enforced on January 7, 2006);
10. The Law on Municipal Service (enforced on February 25, 2005);
11. The Law on the Acts of Civil Status (enforced on April 19, 2005);

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<sup>42</sup> In the MC reference as of December 21, 2005, this law is mistakenly presented as adopted in the first reading.

12. The Law on Principles of Administration and Administrative Procedures (enforced on December 31, 2004);
13. The Law on Penitentiary Service (enforced on April 10, 2004);
14. The Law on Attorney Practice (enforced on January 22, 2005);
15. The Law on the Declaration of Income and Assets of Physical Persons (enforced on August 19, 2006);
16. The Law on Ratification of the Code of Conduct of Law Enforcement Officers (enforced on May 28, 2005)<sup>43</sup>.

In addition to the mentioned laws, on February 8, 2005, the draft Law on Public Health was passed in the first reading, while in 2004-2006 a number of changes and amendments were made in the Customs Code and the Law on Education. Yet, no progress is registered connected with the passage of two very important laws – the Law on Chamber of Control and the Law on Oversight, as well as the draft of the Law on Civil Servants Pensions.

The analysis of the laws enforced before December 31, 2003, is presented in CRD/TI Armenia's publication titled *National Integrity System: Armenia – 2003*<sup>44</sup>. Several amendments to the Armenian Constitution, which are important from the NIS viewpoint, were adopted through referendum on November 27, 2005 are also important from NIS standpoint<sup>45</sup>.

The constitutional amendments increased the degree of independence of the judicial branch of government, restricted the powers of the President and the executive branch and strengthened the role of NA. Starting from July 1 of the current year, ordinary citizens can also apply to the Constitutional Court. However, as mentioned in the Armenian NIS study, the main problem is that progressive laws and procedures are poorly enforced. Therefore, it is necessary to rethink the Government focus on the legal reforms and to promote law enforcement.

Thus, the major deficiency of the Armenian anti-corruption policy is a contradiction between what is written on the paper and what is going on in practice. The majority of the institutions are not functioning according to the NIS rules and procedures. The Armenian

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<sup>43</sup> In the MC reference as of December 21, 2005, this law is mistakenly presented as adopted in the first reading.

<sup>44</sup> <http://www.transparency.am/publications/php>

<sup>45</sup> According to a number of local and international observers, the referendum was accompanied by violations and falsifications.

NIS study indicates that in order to make institutions work effectively there is a need of political will to hold liable for corruption offences any individual regardless of his/her position and wealth. The readiness of public officials to work in an accountable and transparent manner, as well as relevant financial, technical and human resources, and, most importantly, public participation are also seen as the main pre-conditions for the effective NIS<sup>46</sup>.

## **CHAPTER III. RECOMMENDATIONS**

### **General Recommendations**

The recommendations presented below are based on the analysis introduced in Chapter II, as well as on the review of the new version of ACS posted on the government web-site<sup>47</sup>.

First of all, it should be stated that ACS and its AP do not make an impression of one integrated document. As mentioned earlier, the AP measures do not fully reflect the ACS content. On one hand, AP includes measures related to areas, which are not mentioned in ACS, and, on the other hand, it lacks measures related to the areas included. Therefore, it is critical to ensure consistency in the new ACS and AP.

Secondly, it would be better to restructure ACS so that it has three Sections, each of which could introduce the prevention, detection and public support components of anti-corruption policy. These Sections could consist of sub-Sections, where the general provisions of each Section are applied to individual areas. In this respect, it is recommended to change the title of the Section 4 of Chapter I of the proposed new ACS into “Major Components of the Anti-Corruption Policy” and give clear definitions of all three components. This will change the ACS Section on directions in anti-corruption policy in Armenia, in which detection and public support aspects are not adequately presented.

It is also proposed to amend the definition of corruption mentioned in sub-Section 1 of Section 1 of the same Chapter by adding the following: “...by public official aimed to receive material or other forms of benefits, which affect the interests of the state and the

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<sup>46</sup> *National Integrity Systems: Armenia 2003*. CRD/TI Armenia, Yerevan, 2004, pp.5-6

<sup>47</sup> [http://www.gov.am/armversion/premier\\_2/primer\\_council\\_6hashvet.htm](http://www.gov.am/armversion/premier_2/primer_council_6hashvet.htm)

society”. There is a need of having a clearer definition of administrative and political corruption and bringing specific examples of their manifestation (e.g. abuses occurring in the electoral processes as a case of political corruption and abuses in the tax or customs systems as a case of administrative corruption).

The Section devoted to the description of the level and manifestations of corruption in Armenia should be updated and made more comprehensive through the use of the recent study results from both local and international organizations, as well as information from publications in the media and other sources. In fact, this publication could also serve as a valuable source of information.

In the same sub-Section it is critical to discuss in detail shadow economy, granting illegal privileges to certain entrepreneurs, the concentration of political and economic power in the hands of a group of politicians, as well as the generation of property and income acquired through abuse of power and conflict of interests. It is necessary to give a strong evaluation of the dangerous effects of corruption on political, economic and social development of the country.

It is hard to understand why the list of preventive measures mentioned in ACS does not include such critical areas, as electoral processes, public procurement or granting economic monopolies. A number of areas infected by corruption should also be added to the ACS document, for instance, the army, the state cadastre, land allocation and construction, earthquake zone and housing for refugees, use of loans, credits, grants and other means received by the state, abuse of administrative resources during electoral processes, etc.

It is worth mentioning that in the given sub-Section “...insufficient efforts of the law enforcement bodies and judicial system ... in the detection of corruption offences and ... holding liable their perpetrators, as well as the violation of the principle of the inevitability of the punishment” were noted as causes of corruption. Nevertheless, this should be supplemented by the following causes:

1. a coalescence of political and business elites (“state capture”);
2. a dominance of the executive branch of the government over the legislative and judicial branches;

3. an underestimation of the danger of corruption within the society and public tolerance to corruption;
4. an influence of the external environment (money laundering, trafficking, corrupt practices involving foreign officials, etc.);
5. corrupt practices in the export and import of goods and services.

A new Section (between Sections 2 and 3) should be added to Chapter I titled “Goal and Objectives of the ACS”. It is recommended to describe the goal of ACS as follows: “The goal of the National ACS of the Republic of Armenia is to reduce the level of corruption in the country, as a result of which corruption will stop to be a systemic phenomenon and thus will have a less negative influence on Armenia’s economic development, establishment of democracy, living standards of population and national security.”

The application of the systemic approach to combating corruption assumes the following:

1. an effective functioning of the country’s NIS;
2. an integration of the prevention, detection, and public education and support components in ACS;
3. a cooperation between the government, business and civil society structures, which will ensure transparent, accountable and efficient participation of the businesses and civil society organization in the formulation and implementation of ACS.

The ACS objectives could be as follows:

1. to ensure a long-term nature of the fight against corruption;
2. to improve coordination and control of the implementation of ACS by establishing a special body, which will be given broader powers, stronger than those, which ACC and its MC currently have; the body should be less dependent from the executive branch of the government than the existing anti-corruption structures;
3. to ensure a proper financing of all ACS components through the state budget;
4. to ensure the inescapability of legal liability for corruption offenders and increase the level of disclosure of corruption crimes (corruption risks);
5. to study the causes and consequences of corruption, specifics of its manifestation in different areas and applicable international experience on a regular basis;

6. to improve the quality of anti-corruption legal acts;
7. to ensure transparency and accountability of the process of the ACS implementation and for all participants and institutions involved in it through creating proper conditions for the involvement and participation of civil society structures and mass media;
8. to increase intolerance to corruption within the society;
9. to develop and introduce anti-corruption curricula both in the secondary and higher educational institutions.

Understanding the importance of efficient implementation of the Strategy, it is proposed to add a new Section in Chapter I – “Coordination and Control of the Fight against Corruption”, where a new special body will be described, with details concerning its status, composition, powers and duties, relationships with institutions responsible for implementation of ACS, as well as other interested parties, in particular, representatives from the public.

The development of anti-corruption policy, control over the implementation of ACS and its coordination with other programs (in particular, Poverty Reduction Strategy Program and Public Sector Reform Program) should be the main functions of this new institution. Also, sufficient financial, human and technical resources for such structure should be secured through the state budget and other sources. The body should consist of representatives from different areas, who do not belong to any political party, have no friend or kin relationships with high ranking politicians or economic clans and have earned a reputation as independent, devoted and clean personalities.

The structure should have an extended group of experts with high qualification and valuable experience. The best way to ensure the independence of such institution from the executive would have been the appointment of its members by NA, providing that the parliamentary members were elected through free and fair elections and not “controlled” by the executive, as in today’s Armenia.

However, this recommendation would have contradicted the Armenian Constitution, where all institutions with a “special” status are to be mentioned<sup>48</sup>. Considering this fact, the only appropriate option is to make that body affiliated with the Government, which will give to it a higher status. Meanwhile, transparency and accountability of the activities of this institution to the executive, the legislature and the public should be ensured. The currently functioning bodies (ACC and MC), are actually not held responsible for inefficient implementation of ACS measures.

Going back to the revised ACS, it should be mentioned that some other positive changes have occurred. For instance, sub-Section 2 of Section 1 emphasizes the importance of law enforcement. A whole sub-Section was added to ACS with the title of “3. Principles in the Fight against Corruption”, which includes a number of important provisions, for example, that it is more efficient to fight against the conditions and causes of corruption than its manifestations, or that the fight against corruption should be organized at all levels and further public intolerance. Suggestions to extend the powers of the Chamber of Control, to separate the decision making in implementing and overseeing executive bodies and to make important personal responsibility of public officials are also quite valuable.

However, there are several provisions in that sub-Section, which are confusing and/or require additional clarification, for instance, the first paragraph stating “It is impossible to gain absolute victory in the fight against corruption”. First of all, it is inappropriate to start such important sub-Section with a statement, which actually justifies the existence of corruption. Secondly, it is irrelevant to continue the mentioned statement saying that providing that there is a stable state and an established society, corruption is a “technically useful alarm signal” on the deficiencies in the Government. Associating the notion of “usefulness” with corruption is in any event unacceptable for the ACS document.

In addition, it is not clear why “the main obstacle in the fight against corruption in the local self-government bodies is the absence of oversight of the civil society over these bodies”, as provided in the same sub-Section. The current system of local self-

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<sup>48</sup> If there is political will to have an independent body, which would ensure effective fight against corruption, then the issue of required constitutional amendments could be resolved in the near future through amending the Constitution.

government is so dependent on central and regional authorities and has so many problems requiring urgent solutions that the societal control will not really secure the solution of corruption related problems at community level, even if the public is allowed to oversee the performance of local authorities. The last assumption is actually far from reality. Public participation in political and administrative processes in Armenia is not much encouraged, which is determined in the first place by the lack of political will at central government level.

Once more provision of the same sub-Section requires certain clarification. If it states that “the salary of the public sector employees should be increased regardless of the country’s economic conditions”, then the following question arises: when the economic growth of the country does not provide necessary means, what will be the sources of public servants higher salaries? Will they be generated via grants, loans or donations? Clarification is also needed for another provision - “establishing criminal liability for public sector employees for certain cases of gross violations of law”. As it stands, first, all public sector employees are currently “immune” and not held liable for violating the law, and, second, they can be held liable only for certain, unspecified offences.

The main directions on the fight against corruption are presented in the first part of sub-Section 4 of Section 1. It is said that a number of prerequisites, such as high qualification of the special monitoring groups, the existence of accurate monitoring indicators, etc., are necessary to conduct monitoring of ACS. At the same time, nothing is mentioned about another pre-requisite - a readiness of the state structures to “open the doors” to those conducting public monitoring in order to ensure their access to the needed information, without which it would be impossible to monitor the ACS implementation.

In addition, this part of ACS refers to the adoption of “The Law on Lobbying” as an important means to promote public participation in legal drafting. According to the draft of that law<sup>49</sup>, which is included in the NA agenda under the title “Law on Lobbying Activities”, lobbying is defined both as an entrepreneurial activity and an advocacy effort by NGOs. A combined consideration of these two types of activities creates additional obstacles for NGO participation in lobbying activities.

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<sup>49</sup> <http://www.parliament.am/drafts.php>

Recently, several NGOs organized public debates to share their concerns about making their advocacy activities equivalent to delivery of professional lobbying services<sup>50</sup>. The Armenian Government did not take any steps to change the draft and thus ignored the opinion of civil society representatives.

In the last paragraph of 4.3 part of the same sub-Section 4, which refers to the prevention of corruption, it is proposed either to delete or to paraphrase the provision that is almost completely copied from sub-Section 2 of Section 1.

A new Section “Freedom and Access to Information” is added to Chapter 1 of the new ACS version, which is seen as a positive change. This Section, however, does not include the mechanisms and conditions, due to which it would be possible to ensure true transparency and accountability of government structures. As many citizens, journalists and representatives of NGOs indicate, even after the adoption of the Law on Freedom of Information, access to information in state institutions is still very limited<sup>51</sup>.

The *Center for Freedom of Information* NGO regularly publishes the “black list” of state officials, who violate the individuals’ right to seek information<sup>52</sup>. There have also been cases, when the web-sites containing information on corruption were damaged<sup>53</sup>. During the last few months there were even instances of persecution and physical abuses of journalists, which cause serious concerns<sup>54</sup>. Most probably, violations of the freedom of speech will aggravate on the eve of the 2007 Parliamentary and the 2008 Presidential elections.

A number of positive changes have also been made in Chapter 2 of ACS, which relate to the rights and protection of the interests of the consumers, transparency of the state budget and oversight over its execution, control over the performance of tax and customs bodies, legislative and structural reforms in those sectors, land auctions, privatization and other important issues. The Chapter also includes a new Section on the fight against legalization of income received through illegal means.

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<sup>50</sup> [http://www.transparency.am/news\\_storage.php?s=lobbying](http://www.transparency.am/news_storage.php?s=lobbying)

<sup>51</sup> <http://www.hetq.am>, <http://www.aravot.am>

<sup>52</sup> [www.foi.am](http://www.foi.am)

<sup>53</sup> *Aravot* newspaper, July 30, 2005, and *Chorrord Ishkhanityun* newspaper, July 19, 2005

<sup>54</sup> *Chorrord Ishkhanityun* newspaper, July 17, 2006

Compared with other chapters, Chapter 3 devoted to political corruption, is, perhaps, the weakest. The revised ACS mentions bribing the voters, using administrative resources by ruling parties and illegal financing of electoral campaigns and elections. However, it is also important to highlight a non-transparent character of the electoral processes, lack of public oversight over voting, as well as the substantial role of media in the coverage of the electoral processes.

In the meantime, it is quite alarming that ACS envisages the state control over numerous small political parties in Armenia, arguing that the latter "...sell their vote or opinion regarding the problems of a great importance to the country"<sup>55</sup>. This could be seen as an attempt to restrict opportunities to enter the political scene, and have and express alternative opinions. Moreover, considering the fact that the decision-makers in the country are the big parties, such danger coming from small parties is, at least, exaggerated.

Section 5 concludes with a reference to the CoE 2003 "General Rules on the Fight against Corruption in Political Party and Electoral Campaign Financing" document, whose application will require very serious legislative and institutional changes in Armenia. Bearing in mind that electoral processes determine further political, economic and other developments in the country, from which the effectiveness of the fight against corruption depends to a great extent, a special attention should be paid to the list of the measures aimed at the reduction of corruption in this area.

It is logical to present local self-governance and territorial administration as a separate Section, as it has done in the new version of ACS. The proposed new Section provides important provisions on financial autonomy, transparency and openness of the local self-governance bodies, as well as the need for a clear separation of the powers of the territorial administration bodies. Nevertheless, it is hard to believe that the adoption of the proposed Law on Territorial Administration could resolve the conflict between central and local interests. And it is not clear why there is no reference made to the draft of the Law on the City of Yerevan, which demands separate discussion.

Chapter 4 titled *Public Administration* discusses the codes of conduct for public officials and the issues of conflict of interests, which are also very crucial for ACS. A whole

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<sup>55</sup> [http://www.gov.am/armversion/premier\\_2/primer\\_council\\_6hashvet.htm](http://www.gov.am/armversion/premier_2/primer_council_6hashvet.htm)

Section is devoted to the conflict of interests, where adoption of norms of conduct for public officials and declaration of income and assets are discussed, along with a necessity to make this information available to the public. Meanwhile, it would be immature to think that the general rules of conduct could prevent corruption in a country, where the implementation of laws in that country is not ensured and the atmosphere of impunity dominates. Moreover, it is of no help to publish the declarations of assets and income, if the public does not possess any power to punish those, who hide their income or acquire it through illegal means. This should be dealt with by the state, in particular, tax authorities, who, so far, have not manifested enough decisiveness and consistency regarding this matter.

Valuable changes have been made in the Section on public services with regard to public health, education and environment protection issues. Meanwhile, the very important problem of environment protection does not include a discussion of illegalities occurring in the area of land allocation.

Chapter 5 of the revised ACS relates to the law enforcement bodies and also contains a number of important changes. These are references to the Law on the Military Police, the Law on Road Traffic, the Law on Body Guard Service and other laws.

Chapter 6 was amended as well to emphasize the importance of independence and effectiveness of the judicial system. The need for the review of the Armenian Criminal Code is mentioned there with regard to the receipt of gifts by public officials. Special anti-corruption measures should also be developed for law enforcement bodies and the judiciary, as the effectiveness of the fight against corruption as a criminal phenomenon largely depends on these institutions. However, ACS does not seriously consider the strengthening of the control over activities of the law enforcement bodies and the judiciary.

Finally, it is critical to ensure regular and in-depth studies on the causes and manifestations of corruption in different areas and apply the best international practices. It is also necessary to conduct serious analysis to help reduce corruption risks in the primary and secondary legislation.

## Specific Recommendations

### Prevention

1. To increase a number of measures aimed at improving the quality of anti-corruption legal acts.
2. To develop new mechanisms directed to the enforcement of laws included in AP as well as the laws to be adopted in the future, in particular, for ensuring a timely adoption of sub-legislative acts and their compliance with the acting legislation.
3. To develop measures to guarantee true political and administrative independence of law enforcement, oversight and audit bodies.
4. To ensure measures aimed at the effective separation of executive, legislative and judicial branches of the government and to restrict the dominant position of the executive branch.
5. To increase a number of internal and external control measures, especially in law enforcement, control and auditing bodies.
6. To enlarge a number of specific measures of anti-monopolistic character to prevent granting of privileges to certain businessmen.
7. To develop effectively working mechanisms to prevent the use of administrative resources in the electoral processes and the practice of abuses connected with political party finance.
8. To increase a number of measures directed to the reduction of “public official-citizen” face-to-face contacts, in particular, in the most corrupt areas.
9. To provide legal regulation of the issues connected with the receipt of gifts.
10. To clarify the sizes and procedures of application of disciplinary sanctions in all the codes of conduct, especially, for law enforcement officers, judges, tax and customs officials, representatives of control and auditing bodies, etc.

### Detection

1. To make a separate chapter in the Criminal Code devoted to corruption crimes<sup>56</sup>.
2. To ensure the oversight of the enforcement of legal acts on the receipt of gifts.

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<sup>56</sup> Currently, 59 articles of the Armenian Criminal Code are simply grouped as corruption offences to facilitate collection of statistical data.

3. To develop special mechanisms to oversee the activities of the prosecution bodies connected with investigation of corruption crimes.
4. To introduce effective mechanisms to ensure the protection of law enforcement officers investigating corruption cases (especially, when high-level public officials are involved).
5. To speed up the adoption of the Law on Operative-Investigative Activities and its secondary legislation to clarify and separate the powers and responsibilities of law enforcement bodies (the Police, the prosecution bodies and the National Security Service) and ensure their proper coordination.
6. To promote international cooperation to investigate more efficiently corruption cases using advanced international experience.
7. To provide legal regulation on the protection of witnesses and those who bring appeals on corruption cases and ensure provision of anonymous and free legal advice services.
8. To create legal safeguards to ensure the security of investigative journalists, especially those specializing in corruption.
9. To publish the names and positions of individuals convicted for corruption crimes on a regular basis.
10. To clarify the corruption cases related to the electoral processes and ensure strict penalties.
11. To increase the risks for corrupt behavior, making stricter penalties and increasing the statutes of limitation for corruption offences, and ensuring the imposition of penalties.
12. To develop working mechanisms of checking the property and income declarations, making stricter the penalties for avoiding their submission or submitting false declarations, and regularly publishing the list of penalized persons.
13. To consider as criminal offence the conflict of interests in public service, to regulate it through appropriate legislation, to clarify penalties and develop effective mechanisms for control, and ensure regular coverage of the cases of involving conflict of interests.

The last five suggestions (see Points 9-13) are of preventive nature as well.

## Public Support

1. To ensure continuous public awareness on the adopted laws and secondary legal acts, not limiting only to their official publication and posting on the official web-sites.
2. To increase a number of measures aimed at the regular media coverage of the course of the implementation of ACS and its AP, especially on the activities of the special body (see p. 36) and other responsible state institutions.
3. To develop special mechanisms to encourage “honest” taxpayers, especially those from the private sector.
4. To include measures on public condemnation of corrupt behavior, introducing at the same time special mechanisms to encourage those, who respect the law and behave properly.
5. To ensure regular oversight over the performance of public relations departments of the ministries and take measures to improve their performance.
6. To increase training programs for journalists to ensure better application of the methods of investigative journalism.
7. To guarantee transparency and accountability of the special body through creating its web-site with all relevant information, including minutes of all sessions, bio-data and declaration of interests of its all members, voting results, statements and special opinions, statistical data, public inquiries and responses to them, as well as regular reports on the ACS implementation, etc.
8. To create a hot line of the special body, through which the citizens could anonymously inform the relevant authorities about corruption cases.
9. To provide citizens with free legal consultation on the corruption related issues using the mentioned hot line and through cooperation with the law enforcement bodies.
10. To develop measures on strengthening the monitoring capacities of civil society organizations to oversee the anti-corruption government activities by the state as well as developing the advocacy and lobbying skills to better direct public pressure on the state authorities.
11. To ensure special mechanisms to guarantee the openness of state institutions to cooperate with the public and better endure efficiency of such cooperation.
12. To make sure that civil society organizations involved in anti-corruption activities themselves meet the transparency and accountability requirements.

13. To organize regular and broad discussions on the results of the public and expert monitoring, as well as on the media coverage and take into account the opinions expressed for the review of ACS or its implementation process.
14. To suggest measures aimed at the efficient implementation of the Law on Freedom of Information, and, in particular, making the application of sanctions for hiding information or providing incomplete information stricter.
15. To expand the list of those institutions responsible for the ACS implementation, including civil society organizations.
16. To develop and introduce anti-corruption courses in the secondary and higher education institutions.

## **CONCLUSION**

Based on the analysis presented in this publication one could conclude that **so far the anti-corruption policy in Armenia has not been implemented effectively**. During the three years from the moment the fight against corruption was officially declared, the level of corruption in the country has not in any way decreased, but has even increased according to numerous media publications and research findings. Therefore, it could be argued that the measures included in AP have not been put into practice.

Apparently, the Armenian ACS and its AP do not fully include the three internationally accepted directions of the fight against corruption - prevention, detection and public support. If all provisions envisaged in ACS and all measures included in AP had actually been enforced and implemented, then a positive progress would have been reflected in the opinion of individual citizens, businessmen and experts, regardless of all deficiencies of both policy documents.

The most determining factor hindering the effective fight against corruption in Armenia is the absence of true political will. Thus, the laws are not enforced, the perpetrators of corruption are not punished and the people do not support anti-corruption reforms. High level of tolerance towards corruption is a consequence of inaction and indifference of the public officials and politicians. This normally happens when the fight against corruption is declared by the government or ruling political parties during election campaigns or

under the pressure of donor community without any intention to seriously fight corruption.

Until today, the fight against corruption can be seen as an imitation, since the major anti-corruption initiatives are aimed at the improvement of legislation, but not law enforcement and equality before the law regardless of position and income. Despite all official publications on the disclosed corruption offences<sup>57</sup>, there has not even been a single case during these three years, when a high-ranking official was accused, convicted and/or removed from a position he/she occupied.

Meanwhile, the media publishes a large number of materials on the corruption offences committed by state officials or their relatives<sup>58</sup>. The prosecution bodies and other state institutions receive numerous complaints, where specific cases of bribery or abuse of power are described<sup>59</sup>. Strong accusations are voiced in the NA on the abuses in various areas based on the results of examination carried out by several ad-hoc commissions<sup>60</sup>. Nevertheless, no attention is paid to all these facts; they are either hidden or, in the best case scenario, not followed up in a proper manner.

Under such conditions it is unlikely to expect visible achievements in reducing corruption in Armenia. Realizing that this is vital for the current and future political and economic developments of the country, immediate redesigning of the Government's "preventive" fight against corruption is of great importance. The civil society organizations, political parties, mass media, international organizations and other interested actors should pressure the Armenian authorities to redirect their anti-corruption policy towards the strengthening of detection and punishment of corruption offences, as well as building public support.

The country's anti-corruption policy should be based on mechanisms and measures, through which the Armenian NIS will start functioning effectively. It is mandatory to include relevant OECD and GRECO recommendations, particularly those concerning the criminalization of corrupt phenomena and formation of anti-corruption legal and institutional arrangements. If the authorities do not take such decisive actions in this

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<sup>57</sup> [http://www.gov.am/armversion/premier\\_2/primer\\_council\\_6hashvet.htm](http://www.gov.am/armversion/premier_2/primer_council_6hashvet.htm)

<sup>58</sup> *Hayots Ashkharh* newspaper, July 28, 2005; *168 Zham* newspaper, March 25, 2006; *Chorrord Ishkhanutyun* newspaper, August 26, 2006

<sup>59</sup> [http://www.transparency.am/media\\_archive.php](http://www.transparency.am/media_archive.php)

<sup>60</sup> *Haykakan Zhamanak* newspaper, June 10, 2004.

direction, then it will lead to a broader criminalization of the political sphere, a sharper polarization of the society, a greater disappointment amongst the people and a more negative image of Armenia in the international arena.