National Integrity Systems

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Questionnaire

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What actually happens

Some individuals and legal entities happen to sue the Government, mostly with no success. These are still rare cases in Armenia, since citizens do not trust the Judiciary because of its dependence on the Executive. Then, the majority of population considers courts and prosecutor's offices as very corrupt. And, finally, many people fear possible repressions afterwards.

Are there procedures for the monitoring of assets, including disclosure provisions, for Cabinet and other Government Ministers? Are there procedures for the monitoring of assets, including disclosure provisions, for high-level officials?

Formal provisions

There are formal provisions requiring the Presidential candidates to submit to the Central Electoral Commission their and their relatives' declarations of income and assets for the last year (see Articles 67 and 68 of the Electoral Code).

The Law on Declaration of Incomes and Assets of High State Officials, the Law on Amendments and Additions to that Law, as well as a number of government decisions and other legal acts, regulate issues related to the submission of declarations of the President of the country, Prime Minister, Ministers, and another high political, discretionary, civil service and other positions. Declarations of income and assets of respective high officials, who are subject to those regulations, as well as those of their close relatives, shall be submitted to respective tax authorities on an annual basis. While officials are also obliged to do that within five years following their removal from the office, their close relatives shall disclose their assets only within two following years.

According to the Law on Declaration of Incomes and Assets of High State Officials, those officials who do not submit their declarations shall pay a fine equal to fifty times the official

minimum salary (the latter being less than $2). If they do not submit the declarations within thirty days after being fined, then the fine will go up to two hundred times the minimum salary. Hiding the requested information or providing with the wrong information is subject to the fine equal to fifty times the minimum salary. If this happens twice a year, then the state official shall pay two hundred times the minimum salary.

The Law on Amendments to the Law on Declaration of Incomes and Assets of High-level State Officials added a number of new positions to the list of those subject to disclosure of assets and income and extended the deadline of submission (see Articles 1 and 3). Amendments removed the requirement of the previous Law to publish declarations in "Official Bulletin". Instead, tax authorities shall provide declaration-related information upon request of media representatives (see Article 4).

What actually happens

As required by the legislation, the declarations have been published only for the year of 2001 in four volumes of the "*Official Bulletin*" within the time period fixed by the law. However, according to the unofficial sources of information, they have neither been sent to the bookstores, nor to the subscribers, though have been disseminated to some state institutions. The management of the "*Official Bulletin*" was selling the publication for 90,000 Drams (about $155), which was not affordable for the average citizens or NGO representatives. Nor this information was published in the newspapers and posted on the Government or other official websites.

As reported by media, only 45,437 out of total 70,000 state officials had submitted the 2002 declarations. Administrative fines were imposed on those who did not declare their income and assets. So far, 548 officials paid 50,000 Drams (about $86) each. No information was available on how many of them are members of the Executive. Opposition media and some experts argue that in order to hide actual high incomes most state officials simply register their main income and assets as owned by their relatives. Another issue raised by them is that imposing symbolic fines provides with a simple and convenient way to avoid declaring true assets and incomes, since the law does not envisage other, more serious, penalties.

Are there any differences in procedures and disclosure provisions between elected ministers, appointed ministers and high-level officials?

No, there are no differences in procedures and disclosure provisions between ministers (who are appointed, but not elected in Armenia) and high level officials.

Are there conflict of interest rules? For ministers? For high-level officials?

Formal provisions

Yes, Article 88 of the Constitution states that a member of the Government should not be a member of any representative body, holds any other public office, or be paid for any other job. Similar restrictions can be found for state officials in numerous laws such as the Laws on Civil Service, Tax Service, Customs Service, Police Service, etc.

What actually happens

Conflicts of interest rules for ministers and high officials are traditionally ignored. There is a general perception that it is a widespread practice of members of the Government to have their own businesses or patronage others. Oftentimes, they protect and/or promote certain business interests, for example, through a preferential treatment to their relatives/friends or business partners in the case of state contracting or bidding. According to the opposition media and experts, rent-seeking, cronyism and nepotism prevail within the Executive, and there are no control mechanisms to prevent such practices.

Are there rules and registers concerning gifts and hospitality? For ministers? For high-level officials?

There is a Government Decision #48, February 17, 1993, that stipulates that the gifts taken by a public official (positions are not specified) are subject to submission to the respective state institutions if they cost five times more than his/her monthly salary. If a public official is willing to keep the gifts, he/she shall pay the balance between the market price of the gift and his/her fivefold monthly salary. According to this Decision, the procedure of the gift transfer to the state has to be the same as the transfer of confiscated, ownerless, and inherited property as prescribed in the Government Decision #585, November 18, 1992. It should be mentioned though that these regulations are actually out-dated, as the above-referred Decision #585 has been already abolished.

Article 166.1 of the Code on Administrative Violations states that if public officials do not transfer to the state costly gifts presented to them by non-state institutions, foreign states, international organizations and companies, then the fine equal to the minimum salary will be imposed on them and the gifts will be confiscated by the state. In the case of absence of the gifts, public officials have to pay four times more than the price of the gift.

If so, are these registers kept up to date? By whom?

From unofficial sources of information, no records are kept on the public officials' gifts. Some experts claim that gifts are normally registered not as individual ones (rather in the form of donations to the ministry or agency), though they are actually used by individual high officials.

Are there restrictions on post ministerial office employment?

No.

Are members of the Executive obliged by law to give reasons for their decisions?

Formal provisions

Not directly. According to the Armenian Constitution and other legal acts, the members of the Government are accountable to the President and the Prime Minister, so their decisions can be challenged, in the first place, by the latter. The Ministries and other executive bodies under the Government can be approached by the control and review services under the President Office and the Government. Members of the Executive can be also reviewed by similar services functioning within the Ministries. The President has the right to form ad-hoc review and control commissions to investigate particular cases. The National Assembly, along with the Chamber of Control, are also authorized to review the Government activities. Individual members of the Government can be asked "hard" questions at the special National Assembly sessions. As mentioned above, decisions of the Executive can be questioned through the courts, too. Citizens can also apply to supervisors of those Executive officials whose decisions they want to challenge, as well as to the Government, Prime Minister and President Offices, and other state institutions.

What actually happens

Since review and control functions are executed by the state institutions or their representatives (that are subordinate to and/or dependent from the Executive) this practice excludes impartiality and transparency. As to the National Assembly, it is typically the opposition members who are challenging decisions of the Executive. However, they normally have not enough power to follow-up on their inquires. Several special ad-hoc commissions were formed in the National Assembly upon the opposition initiative, to examine cases related to administrative or legal violations within the Government. Nevertheless, decisions of such commissions have not been seriously taken by respective state institutions. Citizens complaint mechanisms are considered to be very ineffective

because of the existence of bureaucratic chain of command in state institutions and low responsiveness of public officials.

Do Ministers or equivalent high-level officials have and exercise the power to make the final decision in ordinary contract award and licensing cases? Is this power limited to special circumstances?

There are various specialized commissions, committees and departments (independent or under the ministry), as well as other state institutions that are authorized by the law to grant awards or issue licenses. Mostly, heads of those institutions make a final decision on awards or licenses. In some cases (e.g. issuing licenses through complex procedures), Deputy Ministers, not Ministers, sign appropriate documents.

Are there administrative checks and balances on decisions of individual members of the Executive?

Normally, complaints go to supervisors of those public officials whose decisions or actions are questioned. However, as some experts note, no single decision can be made by a public official without preliminary verbal or written approval of his/her supervisor. In other words, this mechanism is actually fictitious.

Legislature

Is the Legislature required to approve the budget?

Formal provisions

Article 76 of the Armenian Constitution provides that the National Assembly approves the state budget presented by the Government. Article 77 empowers the National Assembly to oversee the implementation of the state budget. Article 79 of the Law on the National Assembly Procedures reasserts the provision of Article 76 of the Constitution, and Article 87 of the same Law confirms the power of the National Assembly to control the implementation of the state budget.

What actually happens

Formal provisions are followed.

Are there significant categories of public expenditure that do not require legislative approval? Which?

Formal provisions

No.

What actually happens

N/A.

Are there conflict of interest rules for parliamentarians?

Formal provisions

Article 65 of the Armenian Constitution provides that the parliamentarian cannot hold any other governmental office or perform any paid job, except the work that has scientific, pedagogical or creative character. This provision is reinstated in Article 8 of the Law on the National Assembly Procedures.

What actually happens

Formal provisions are followed regarding positions in the Government, governmental agencies, and those of Marzpets (Governors of Provinces). However, many members of the National Assembly are representatives of big businesses. The usual practice in Armenia is that after being elected to the National Assembly, these businessmen *de jure* resign from the executive positions they hold in their companies, but remain chairmen of the boards and still own the majority of the shares of their companies. Thus, *de facto* they are performing the same tasks (informally), as before being elected.

Are there rules and registers concerning gifts and hospitality?

Formal provisions

The same legal acts described in the previous chapter apply to the National Assembly members, since there are no other specific legal regulations for them.

What actually happens

Traditionally, giving and accepting gifts and hospitality is widespread among high-ranking state officials, including parliamentarians. However, there is no information available on particular cases related to the members of the National Assembly.

If so, are these registers kept up to date? By whom? Have they legal powers to enforce disclosure? Have they staff to investigate allegations? What powers of sanction are in place against parliamentarians? Have they ever been invoked?

Formal provisions

The Administrative Department of the National Assembly maintains registers of gifts received by individual parliamentarians or delegations from the delegations of other parliaments during their official visits to Armenia or during official visits of Armenian parliamentarians to other countries. Other types of gifts received by parliamentarians are not registered.

None of the gifts are registered in the National Assembly register as owned by an individual parliamentarian.

As envisaged by Article 100 and 106 of the Electoral Code, all NA candidates should declare their income and assets and submit them to the Central Electoral Commission. The same Law on Declaration of Incomes and Assets of High State Officials, mentioned in the previous chapter, and all other related legal acts also apply to the members of the NA.

What actually happens

Media reported that administrative fines were imposed on the state officials who did not declare their income and assets though no information is available on how many members of the NA were among those officials.

Are there restrictions on post-legislature employment?

Formal provisions

No.

What actually happens

In practice, former NA members occupy any position.

Electoral Commission

Is there an independent Electoral Commission (if not, are the arrangements for elections in the hands of agencies who are widely regarded as being non-partisan)?

Formal provisions

All types of elections are administered by a 3-level election commission system, namely, the Central Electoral Commission, territorial election commissions and precinct election commissions. Articles 41,42 and 43 of the Electoral Code define powers of the Central Electoral Commission, territorial and precinct electoral commissions, respectively. The Electoral Code (see Article 35) stipulates that Central Electoral Commission, as well as territorial electoral commissions, shall be composed from 3 members nominated by the President and 1 member from each National Assembly faction established by the previous parliamentary elections. Each member of the precinct electoral commission is appointed by one of the members of the relevant district electoral commission.

The Central Electoral Commission and territorial election commissions are operating on a permanent basis. According to Article 17 of the Electoral Code, the number of territorial election commissions is equal to the number of majoritarian seats in the National Assembly (currently, they are 56). There should be almost equal number of voters in the districts, with up to 15% of the difference between them (see Article 17.1), and the number of voters in each precinct should not exceed 2,000 (see Article 15).

What actually happens

The provisions of the Electoral Code regarding the formation and composition of electoral commissions are strictly followed.

Opposition parties and press claim that the 2003 Presidential and Parliamentary elections revealed that electoral commissions were not independent, which was the major problem of those elections. Dependence was conditioned by the fact that the majority of the members of the electoral commissions of all levels were the representatives of pro-governmental parties and candidates. As the decisions of the commissions are adopted by a simple majority of those who are present at the meetings of the commissions, such claims seem to be grounded. For example, at the Presidential elections six out of nine members of electoral commissions officially supported the incumbent. Those were three representatives appointed by him and representatives of three parties, loyal to the President Robert Kocharyan.

At the same time, other experts, journalists and observers pointed out that there were so many irregularities during the parliamentary elections in favor of pro-governmental parties and candidates because most of the opposition representatives in the electoral commissions, especially at the precinct level, were bribed by the pro-governmental forces. Otherwise, those opposition representatives could have somehow raised their voice to prevent such irregularities.

Who appoints the Head of the Commission?

Formal provisions

According to Articles 35-37 of the Electoral Code, electoral commissions themselves elect the chairmen among their members.

What actually happens

The provisions of the Electoral Code are followed.

Political Parties

Are there rules on political party funding?

Formal provisions

Yes, Article 24 of the Law on Political Parties provides that the party funds are formed from: a) membership fees, if they are stipulated by the party's charter; b) donations; c) subsidies from the state budget; and d) civil legal contracts and other sources, not forbidden by the legislation. Article 25 of the same Law regulates the sources of donations (who has and has no right to give donations to parties, how to make donations, etc.). Article 27 regulates the subsidization of certain parties from the state budget. In particular, it defines the minimal level of the subsidy, eligibility criteria for receiving subsidies, and the minimal level of subsidy for each party.

Funding of political parties during the National Assembly election campaigns is regulated by the Electoral Code. It applies only to the parties, which participate individually in the proportional list vote, but not to those participating in the majoritarian vote or as a member of a bloc in the proportional list vote.

What actually happens

According to the statement of the representative of the Ministry of Justice, political parties formally comply with the legal requirements. However, neither the old legislation nor the new Law on Political Parties entered into force in November 2003 provide control mechanisms to oversee political parties' funding.

Are substantial donations and their sources made public?

Formal provisions

Yes. Article 28 of the Law on Political Parties provides that the party must disclose the source of the substantial donation in its financial report. Substantial donation is defined by the same Article of the Law as the one, which exceeds 100 times of the minimal salary (1,000 AMD or about $1.7).

What actually happens

In practice, the parties claim that they do not receive any substantial donations, and, thus, their financial reports do not contain relevant information. Even if the parties receive such donations, they hide those facts. Usually, as the experts mention, the party "splits" that large donation into small ones and then asks some of its members to "donate" these "pieces" to it (or the party). This is happening for several reasons. First, if the donors are large businesses, they are afraid to disclose themselves to tax authorities. Second, some donations are simply money laundering operations, which, naturally, cannot be made public. Third, there are rumors that some parties receive funding from abroad, which is a violation of the law (see Article 25 of the Law on Parties). Finally, donors do not want to publicize their donations to opposition parties fearing of repercussions from authorities.

Are there rules on political party expenditures?

Formal provisions

There are no explicit formal or informal legal provisions relating to party expenditures, except for the expenditures during the Parliamentary election campaigns, which are regulated by the Electoral Code. It is assumed that parties should control themselves in spending their money to promote their goals and ideas. Provisions regulating party expenditures during the National Assembly election campaigns are aimed at creating more or less equal conditions for all participating parties.

What actually happens

Party expenditures are not controlled. As the results of the CRD/TI Armenia Project on the monitoring of political parties expenditures revealed, three (out of 21 parties and party blocs) parties participating in the 2003 Parliamentary elections violated the provisions of the Electoral Code, significantly exceeding the maximum size of expenditures stipulated by the law. These three parties are supported by the President and formed the Coalition Government. However, the Review and Control Service under the Central Electoral Commission did not find any violations committed by them.

Are political party accounts published?

Formal provisions

Article 22 of the Law on Political Parties defines publishing of the annual report on the use of the parties' property in the press as one of the duties of the parties. That information should also mention the sources of income. Article 28 of the same Law obliges the parties to publish in mass media outlets their annual financial reports not later than on March 25 of the next fiscal year.

What actually happens

Though both the old and new laws regulating the functioning of parties require publishing of the their financial reports, in practice, most parties were not following these requirements. In rare cases, some parties published financial reports in provincial newspapers with very limited circulation. The reason is that the previous law was not providing mechanisms obliging parties or media outlets to publish parties' financial reports. According to the Ministry of Justice officials, currently, the Ministry is preparing a number of decisions, which will provide mechanisms for enforcing the publication of the parties' financial reports.

Are accounts checked by an independent institution, are they published and are they submitted to parliament?

Formal provisions

Yes, Article 28 of the Law on Political Parties stipulates that control over the financial activities of political parties is performed in a procedure prescribed by the law. As the political party has a status of legal person, checking of its accounts falls under the jurisdiction of the State Tax Service. The State Tax Service does not publish these accounts. Neither does it submit them to the National Assembly.

Article 28 of the Law on Political Parties obliges the parties to also submit their financial reports to the Ministry of Justice. Thus, parties' financial reports can be checked by the Ministry of Justice as well.

What actually happens

Legal provisions are followed in practice.

Does that institution start investigation on its own initiative?

Formal provisions

Every year the State Tax Service carries out selective reviews of randomly selected parties. If irregularities or violations of laws are revealed, the State Tax Service carries out investigation and informs the Ministry of Justice about the problems. The Ministry of Justice can also conduct its independent investigation based on the analysis of the financial reports submitted by the parties.

What actually happens

Legal provisions are followed in practice. During the last five years, no cases of investigation have been reported by media.

Who appoints the Head of the institution?

Formal provisions

The Head of the State Tax Service is appointed by the President.

What actually happens

Formal provisions are followed.

Supreme Audit Institution

Is the national auditor general independent? i.e. Is the appointment of the general auditor required to be based on professional criteria/merit?

Formal provisions

No, Article 8 of the Law on the National Assembly Chamber of Control provides that its Chairman, his/her deputy and heads of its departments should be citizens of Armenia with higher education. They cannot be parliamentarians, run other governmental positions or perform other jobs, except jobs of scientific-pedagogical and creative nature. Article 9 of the same Law mentions that the Chairman of the Chamber of Control appoints other employees of the Chamber.

What actually happens

As the National Assembly appoints the Chairman of the Chamber of Control and his/her appointment is not required to be merit-based, actually, the appointee is the one who has the support of the majority of votes of parliamentarians.

As mentioned by the former high level official of the CoC Chamber of Control, there is no merit-based recruitment of the staff. As a result, only heads of the Chamber of Control departments have enough qualification, while other employees are mostly under-qualified.

Is the appointee protected from removal without relevant justification?

Formal provisions

Though Article 9 of the Law on Chamber of Control provides that the Chairman of the Chamber is appointed by the National Assembly for six years period, Article 11 of the same Law stipulates that the powers of the Chairman can be terminated early by the decision of the National Assembly, without specifying in which cases. There are no provisions in the Law about the removal of other employees of the Chamber of Control.

What actually happens

So far, there have been no removals. However, the replacement of the first Chairman of the Control Chamber (headed since its establishment in 1996 and till 2002) by the current one was characterized by some controversy. The point was that the amendment to the Law, establishing the 6-year term of office for the Chairman, was adopted in 1999, and some experts argue that this amendment has no retrospective effect. If so, then the terms of office should be counted from 1999 (meaning until 2005). Others claim that the amendment has retrospective effect, and the terms of the office should be counted from 1996 (meaning until 2002).

Are all public expenditures audited annually?

Formal provisions

According to Article 2 of the Law on Chamber of Control, among the objectives of the Chamber is the submission to the National Assembly of its conclusions on the Government annual report concerning the execution of the state budget, and reference information regarding the execution of the state budget on the semi-annual basis. Article 5 of the same Law empowers the Chamber to oversee both the revenues and expenditures of the state budget. These provisions do not explicitly require annual audit of all public expenditures.

What actually happens

Selective auditing takes place every year.

Is reporting up to date?

Formal provisions

Article 77 of the Armenian Constitution requires the National Assembly to debate and approve the Government's annual report on the previous year state budget only if the conclusion of the Chamber of Control is attached. This provision is reinstated in Article 2 of the Law on Chamber of Control. Article 15 of the Law requires the submission of the Chamber of Control annual report to the National Assembly within 3 months after the end of the previous fiscal year. Article 2 of the Law defines the submission to the National Assembly of reference information concerning the execution of the state budget in the previous half-year one of the objectives of the Control Chamber, which is reinstated in Article 16 of the Law on Chamber of Control. Both annual report and semi-annual reference information should be published in the "*Official Bulletin*".

What actually happens

In practice, the Chamber of Control follows the provisions of the Law on annual reporting and submitting of annual conclusions on the execution of the state budget for the previous fiscal year. Semi-annual references are not published in the "*Official Bulletin*". The reason is that another legal act, namely, the Law on Legal Acts (see Articles 62 and 64) defines what should be published in the "*Official Bulletin*" and the semi-annual references of the Chamber are not included in the list of the documents. This is an example of how different laws oppose one another.

Are reports submitted to a Public Accounts Committee and/or debated by Legislature?

Formal provisions

There is no Public Accounts Committee in Armenia. According to Article 15 of the Law on Chamber of Control, annual reports of the Chamber should be submitted to and debated by the Legislature. Semi-annual official references are to be submitted to the Legislature, but not to be debated (see Article 16 of the Law).

What actually happens

The formal provisions are followed.

Are all public expenditures declared in the budget?

Formal provisions

Yes, Article 25 of the Law on Budgetary System provides that in the Government annual report on the execution of the previous year's budget must show how the public expenditures were spent. The report should also include a comparison of the factual parameters of the spending with the spending parameters approved by the Law on the Budget of that particular year.

What actually happens

The formal provisions are followed.

Judiciary

Have the courts the jurisdiction to review the actions of the Executive (i.e. Presidency, the Prime Minister's or other Ministries and their officials)?

Formal provisions

Yes, according to Article 38 of the Constitution everyone is entitled to protect in the courts his/her rights and freedoms provided by the law. However, citizens of Armenia cannot apply to the Constitutional Court in the cases of violation of their constitutional rights by the Executive. As envisaged in Article 15 of the Civil Code, physical or legal persons can appeal to the court considering any Government legal act as violating his/her civil and other rights.

The second option is the review by the Constitutional Court. By Article 100 of the Constitution, the Constitutional Court has the power "to decide whether the laws and decisions passed by the National Assembly, decrees and orders of the President, and decisions of the Government comply with the Constitution". Article 102 of the Constitution provides that the decisions of the Constitutional Court cannot be appealed and enter into force immediately after their publication. Article 64 of the Law on Constitutional Court makes its decisions binding for all state entities, enterprises, and citizens.

Article 101 of the Constitution limits the scope of those who can appeal to the Constitutional Court. Thus, only the President of the country, at least one third of parliamentarians, candidates who run for the Presidency and for the membership in the National Assembly (if their complaints relate to the results of the elections), and the Government (in the case of the serious illness of the President or other obstacles that make the President incapable to run his office) can appeal to the Constitutional Court.

What actually happens

Some individuals and legal entities happen to sue the Government, mostly with no success. These are still rare cases in Armenia, since citizens do not trust the Judiciary realizing its dependence on the Executive. Then, the majority of population considers courts and prosecutor's offices as very corrupt. And, finally, many people fear possible repression afterwards.

Regarding the Constitutional Court, only 6 out of its 462 decisions (as of December 2003) were related to the compliance of the provisions of the laws with the Constitution, and only one decision was related to the National Assembly Decision. So far, the Constitutional

Court has never examined a case of the compliance of the Presidential Decrees or the Government Decisions with the Constitution.

Are judges independent? i.e. Are appointments required to be based on merit? Are the appointees protected from removal without relevant justification? Are recruitment and career development based on merit?

Formal provisions

Yes, Article 15 of the Law on Council of Justice explicitly states that the appointments of the judges should be based on the professional and moral qualities of the candidates. Article 3 of the Law on Constitutional Court also provides that the member of the Constitutional Court must have sufficient professional and moral qualities.

Article 19 of the Law on Council of Justice and Article 30 of the Law on Status of Judge define the grounds (justification) for early termination of the powers (removal) of judges. Article 14 of the Law on Constitutional Court provides the grounds for early termination of powers for the member of the Constitutional Court to protect the appointees from the unjustified removal.

The status of the members of the Constitutional Court does not change during the whole period of their work. Hence, career development provisions do not apply to them. As for judges, Article 13 of the Law on Council of Justice provides that recruitment and career development (including the advance in the judicial ranks) should be based on merit.

The laws require that the appointments and career development for judges should be based on merit, and the removals cannot take place without relevant justification.

In the meantime, Article 55 of the Armenian Constitution empowers the President to appoint, remove and promote all judges (upon the recommendation of the Council of Justice), and nominate four out of nine members of the Constitutional Court.

What actually happens

Opposition politicians and press claims that the Judiciary in Armenia is not independent. They point to the unfair verdicts passed by judges, by which many participants of protest manifestations organized by opposition leaders during the 2003 Presidential elections were fined or sentenced to 15 days prison. Other recent examples of the dependence of Judiciary from the Executive pointed by opposition were the trials on the assassination of eight senior officials (among which were Vazgen Sargsyan, then the Prime Minister, and Karen Demirchayn, the NA Chairman) in the National Assembly on October 27, 1999, and the murder of a prominent journalist on December 28, 2002.

The issues relating to the appointment, removal and career development of judges are not regularly covered. There is no available information on how the Council of Justice decides whom to recommend to the President for appointment, removal or promotion. Journalists mention the fact that the Council of Justice is very reluctant to work transparently. Presidential Decrees on the judges' appointments, removals or promotions do not disclose that information either. Public perception is that bribing and nepotism, rather than merit are the decisive factors in the appointment and career promotion of judges, as well as prosecutors and police officers.

Have there been instances of successful prosecution of corrupt senior officials in the past 3 years?

There are no such statistical data available, as stated in the official letters from the Police Service, the Office of the Prosecutor General and the Ministry of Justice.

Civil Service

Are there laws establishing criminal and administrative sanctions for bribery?

Yes, Articles 311-313 of the Armenian Criminal Code establish criminal sanctions for taking and giving bribes and mediating bribery.

Are there rules requiring political independence of the civil service?

Formal provisions

According to Article 3 of the Law on Civil Service, a civil service position is not subject to change when a configuration of political forces has changed. However, Article 25 of the Armenian Constitution states that only those belonging to the armed forces and law enforcement organizations can be restricted to form or join political parties. Therefore, the Civil Servants have the right to be members of any political party, though Article 24 of the Law on Civil Service mentions that they shall not use their position in interests of the parties they belong to or be involved in political activities while carrying out their service duties. Meanwhile, the Law requires legal protection of the Civil Servants from political persecution (see Article 22).

What actually happens

In spite of adoption of a principle of the merit-based appointment to the Civil Service positions, the Law allows that the highest Civil Servants are appointed by political figures such as the President, the Prime Minister, Ministers, etc. (see Article 15 of the Law on Civil Service). When political “temperature” reached its highest degree during the recent Presidential and Parliamentary elections, there was a lot of evidence reported by media and observers of how ministers and other high officials force Civil Servants to use public resources and abuse power to support the desired candidates and/or parties.

On the other side, none of high officials can perform his/her duties without help of a huge army of Civil and other Servants. As a result, those who, in fact, keep the Ministry or Agency functioning, stay at their positions (mainly medium and low) when a new leader comes. They are also needed to perform the duties of newly appointed relatives and friends of the new leadership, who rarely possess enough qualification.

Are recruitment/career development rules based on merit?

Formal provisions

According to Article 10, the Passports (descriptions) of the Civil Service Positions include job requirements concerning education, work history and professional experience. A vacant position of the Civil Servant can be occupied only through competition and as a result of the successful attestation. The competition shall be held in two stages: test (computerized or written) and interview. After the interview, the Competition Commission conducts a closed secret vote for each participant. The competition procedures are determined by the Civil Service Council.

Article 19 of the Law on Civil Service envisages that every year at least one third of the Civil Servants shall be subject to mandatory attestation. Regular attestation of the Civil Servant shall be carried out once every three years. Attestation shall be held through reviewing relevant documents, as well as conducting test and interview. After attestation, the relevant Commission can grant a higher classification grade; confirm the conformity with the position occupied; to confirm the conformity with the position occupied, if the Civil

Servant completes the training program, with positive grades; and conclude on inconformity with the position occupied.

What actually happens

Not many competitions have been held since the establishment of the Civil Service. Manvel Badalyan, Chairman of the Civil Service Council, noted that as of July 2003 there were 200 vacant Civil Servant positions (mainly of the Heads of Departments in the Yerevan City Hall and various Ministries), as applicants were not always qualified enough to pass test and interview. 100 officials were removed from the office because they did not meet the requirements prescribed for the occupied positions, as reported by the same source.

Are there specific rules to prevent nepotism? Cronyism?

Formal provisions

The legislation covers issues related to conflict of interest, nepotism, but not cronyism. According to Article 24 of the Civil Service, the Civil Servant shall not be involved in other paid activities, but of scientific, pedagogical, and creative nature; be personally engaged in entrepreneurial activity; represent a third person in the relations with the institution where he/she works, or his/her immediate subordinate or supervisor; receive an honorarium for publications or speeches made during performing his/ her duties; use material and technical, financial and information resources, other state property and data for purposes not related to the office work; etc.

Moreover, Article 24 stipulates that within a period of one month after appointment, the Civil Servant, having 10 % and more shares in the chartered capital of any commercial organization, is obligated to put them under the trust management. Meanwhile, the Civil Servant can receive income from the property under the trust management. It is forbidden to the Civil Servant to work together with a close relative or in-law (parent, spouse, child, brother, sister, spouse's parent, child, brother and sister) under direct subordination or supervision of one another.

What actually happens

Rumors are circulating about appointments of close relatives, friends or business partners of high state officials to the Civil Service positions. Media, experts and public opinion surveys indicate that nepotism, clanship and cronyism still prevail within state institutions. The Chairman of the Civil Service Council pointed out in his interview to *Aravot* daily, July 17, 2003, "we are tired of requests from relatives, friends, in-laws…".

Are there rules (including registries) concerning acceptance of gifts and hospitality?

As noted above, among restrictions for the Civil Servants is taking gifts for the service provided (see Article 24). In the meantime, Article 33 refers to violations of these two requirements as a ground for the Civil Servant removal from the office.

The same provisions mentioned in this respect for the Executive and Legislature apply to civil servants as well.

If so, are these registers kept up to date? By whom?

From various unofficial sources of information, no records are kept on the public officials' gifts. Some experts claim that gifts are normally registered not as individual ones (rather in the form of donations to the ministry or agency), though they are actually used by individual high officials.

Are there restrictions on post public service employment?

Within a period of one year after dismissal from his/her position, the Civil Servant shall not be employed by an employer or become an employee of an organization he/she controlled over the last year of holding the Civil Service position. However, there is no real control over implementation of those legal provisions.

Are procedures and criteria for administrative decisions published (e.g. for granting permits, licences, bank loans, building plots, tax assessments, etc)?

Formal provisions

According to the Law on Legal Acts, almost all legal acts enter into force after their publication (see Article 45). Articles 59 and 60 make an exception for those acts that possess state secret and are considered as individual and internal. Numerous laws, for example, the Law on Registration of Legal Entities, the Law on Licensing, the Law on Public Procurement, etc., provide a clear description of appropriate procedures and require publication of the relevant decisions.

What actually happens

Normally, information provided through the laws and administrative decisions are not clearly formulated and thus barely understandable by average people. Oftentimes, even verbal messages of officials are delivered in a sophisticated way to deliberately confuse the customers. Therefore, the lack of simplified guides with details of various administrative procedures (available in the buildings of ministries or agencies) is seen as a problem. Such guides are usually published and disseminated by NGOs or international organizations. In rare cases, customers can see some guidelines posted on the bulletin boards or the walls.

Are there complaint mechanisms for public servants and whistleblower protection measures?

Article 25 of the Law on Civil Service stipulates that the Civil Servant should immediately notify (in a written form) the official who gave the assignment and his/her supervisor that the given task contradicts the Law or is beyond the authority of that official. In case when the supervisor confirms the given assignment in a written form, then the Civil Servant has to accomplish the task if it does not assume criminal or administrative responsibility. However, the Civil Servant should officially inform the Civil Service Council about that and in this case the official who gave a written assignment will bear all the responsibility. There is no whistleblower protection in Armenia, which also keeps people away from complaining.

Are there means for complaints by members of the public?

As to citizens' complaints, in most cases, they go to the immediate supervisor of the Civil Servant or even to him/herself. The complaint can be put under the table or circulates within the Ministry or Agency for a long time, with no real follow-up.

Civil Servants are liable for violation of the Civil Service and other legislation and can be punished and even sued in the manner prescribed by the law. Trials against state officials are not common practice due to public mistrust towards the Judiciary.

Are there administrative checks and balances on decisions of individual public officials?

Formal provisions

Each Civil Servant is first of all accountable to his/her immediate supervisor on a daily basis. According to Article 19 of the Law on Civil Service, every six months, the Civil Servants should submit a report regarding his/her work in the period after the previous attestation. Based on this report, the supervisor makes a performance evaluation to be submitted to a relevant body (see above) before the start of evaluation process.

Article 32 of the Law stipulates that there are the following types of administrative punishments for not performing the Civil Servant duties or performing them not in a proper manner: warning, reprimand, severe reprimand, wage cut, and dismissal, upon the agreement of the Civil Service Council. Only those officials who are authorized to make appointments to their positions can impose the punishment on the Civil Servant. In cases identified by the Civil Service Council, administrative punishments are imposed only after carrying out appropriate investigation. In addition to the Civil Service Council that has power to conduct administrative investigations, there are numerous other institutions with investigate functions: review and control services under the President Office, the Government, within the Ministries, etc.

What actually happens

Because of the lack of coordination and the absence of identified responsibilities for particular type of investigation and target institutions, the abovementioned services often duplicate each other's activities. Moreover, this mechanism seems to be not very effective because it is applied not by independent agencies, but services under the Executive control.

Police and Prosecutors

Is the commissioner of police independent? i.e. Are appointments required to be based on merit? Is the appointee protected from removal without relevant justification?

Formal provisions

Article 11 of the Law on Police Service defines the criteria, which should be met by the citizens who apply to serve in police. The applicant must meet among other criteria, high physical and moral characteristics. Article 15 of the Law provides that the career development of Police officers, except of the highest officers of Police (Head of Police and his Deputies), should be based on the results of their attestation. The same Article stipulates that each Police officer should pass attestation every three years. The attestation is carried out by special attestation commissions. The commission makes its decisions based on the written evaluation prepared by the officer's direct supervisor and on the results of interview with him/her. Article 41 of the Law provides that a Police officer can receive higher rank in an out-of-term order bypassing the next attestation for a long-time excellent service (only once during his/her career) or for performing special tasks in excellent manner. Thus, career development is also merit-based.

Highest Police officers do not pass attestation. Article 13 of the Law on Police Service provides that the President of the country appoints and removes them. Article 14 of the Law defines certain criteria, which should be met by the highest Police officers to be appointed by the President. In particular, the Head of Police can be a Police officer holding the highest Police position (Deputy Head of the Police) at the moment of his/her appointment or holding a senior position (Head or Deputy Head of the Police Department)

during the last three years. Also, he/she must have at least a rank of lieutenant colonel. As the Head of the Police is not a member of the Government, the Legislature has no influence on the President's appointment.

The removal of the Police officer is also based on the results of attestation. Articles 42, 45 and 46 define the grounds, based on which Police officers can be released from the Police Service or from the office (in the last case they remain in the Police Service).

What actually happens

The widespread public opinion is that appointment, promotion and removal decisions in the Police are based on bribing and nepotism, rather than merit. However, media do not report about specific facts proving such allegations. Another perception of the Police is that it is heavily dependent from the Executive.

Are public prosecutors independent?

Formal provisions

Article 22 of the Law on Public Prosecution defines the criteria for appointing and removing the prosecutors. These criteria are similar to those defined for Police officers or judges, and, thus, the appointments of prosecutors are formally merit-based and removals justified by relevant grounds.

The same Article also provides that the Prosecutor General, his/her Deputies and Heads of the structural units are appointed and removed by the President. Hence, the situation related to their real independence is the same as the one related to the Judiciary, as the public prosecution is defined by the Constitution as a part of the judicial branch of the government.

What actually happens

The situation with the public prosecution is identical to the one with the Judiciary.

Are there special units for investigating and prosecuting corruption crimes?

Formal provisions

No, there are no such special units, as of December 2003.

What actually happens

N/A.

Is there an independent mechanism to handle complaints of corruption against the police?

Formal provisions

Article 190 of the Criminal Procedural Code provides that certain crimes, including corruption-related ones can be initially investigated by the Police, the National Security Service and the Prosecution and then prosecuted by the latter only.

What actually happens

The legal provisions are followed in practice. Here is again a situation when the state institution is authorized to execute control over itself. Neither other branches of government nor civil society have a role in preventing corruption and crime within the Police Service and the Prosecution.

Does civil society have a role in such a mechanism?

No.

In the last five years, have police officers suspected of corruption been prosecuted (or seriously disciplined or dismissed)?

Yes, responding to CRD/TI Armenia's request to provide information on the corruption cases in which police officers have been involved, the Police informed that 35 police officers were convicted for corruption related crimes in the last five years. 23 out of these 35 officers were convicted as a result of intra-agency investigation undertaken by the Police authorities themselves.

Are there any cases of corruption within the prosecuting agencies?

Upon the CRD/TI Armenia request, the Office of the Prosecutor General and the Ministry of Justice referred to the Police to obtain such statistical information. However, the Police responded that it has no such statistical data.

Which legislative instruments can be used by the police and public prosecutors for the investigation and prosecution of cases of corruption/bribery?

There are no specific legislative instruments for investigating and prosecuting corruption cases. All instruments defined in the Criminal Procedure Code and Criminal Code to investigate and prosecute other types of crime are applied for the corruption crimes. A special chapter in the Criminal Code (Chapter 29) defines penalties for the corruption crimes committed by public officials.

Is the law applied?

There are no studies or data on how consistently and efficiently the law is applied.

Is private-to private corruption punishable by law?

Yes, Articles 187 to 216 of the Criminal Code titled "Crimes against Business Activities" includes definitions for crimes, which are internationally recognized as private-to-private corruption and penalties for them.

Is the law applied?

The new Criminal Code, which contains articles on the private-to-private corruption, entered into effect in August 2003, and until December 31, 2003 media has not reported about any cases on such form of corruption.

How many cases of prosecution have been undertaken in the past years? How many have been successful? If the number is low, are there other effective measures or other good reasons why the number is low?

Responding to the CRD/TI Armenia's official request regarding the number of corruption-related criminal cases for the period of 2000-2002, the Ministry of Justice informed that total 284 state officials had been convicted on this matter (154 - in 2000, 85 - in 2001, and 45 in 2002). 100 (62 - in 2000, 27 - in 2001 and 11 - in 2002) of the convicted

officials were sentenced for the forgery; and 92 (45 - in 2000, 25 - in 2001 and 22 - in 2002) - for abuse of power. 56 (28 - in 2000, 19 - in 2001 and 9 - in 2002) of the accused officials were convicted for receiving, and 23 (16 - in 2000, 6 - in 2001 and 1 - in 2002) for giving bribe. Two officials in 2001 were convicted for mediating in the bribery transaction. Finally, 11 officials (3 - in 2000, 6 - in 2001 and 2 - in 2002) were sentenced for exceeding their authority. These numbers do not include cases, which did not reach the courts.

Public Procurement

Do rules for public procurement require competitive bidding for all major procurements with limited exceptions?

Formal provisions

Yes, Article 18 of the Law on Procurement defines the following types of procurement: centralized and decentralized competitive bidding, price listing, and single sourcing. There are strict rules for sole sourcing and price listing mechanisms. For the last one the Law defines a benchmark of three fourth of procurement base unit which is minimum salary level multiplied by 1,000 (currently it is equal to 750,000 AMD or approximately $1,316). Article 24 of the Law on Procurement prohibits artificial partitioning of the procured goods, works and services. It also prohibits artificial extension of the contracts except those of single sourcing.

What actually happens

Though provisions of Article 18 are followed in practice, competitive bidding is not a common practice. As for Article 24, there are no mechanisms for its implementation.

Are the rules laid down in documents publicly accessible?

Formal provisions

Yes, Articles 25 - 44 of the Law on Procurement regulate all rules and procedures of all forms of procurement, and all participants of the procurement are bound by these rules and procedures. Articles 45-50 regulate the procedures of appeal. Article 18 of the Law on Procurement requires that each year the list of the public procurements shall be published by a separate annex of the Law on State Budget.

What actually happens

The information is publicized in the "*Official Bulletin of Procurement*" and by other means specified in the law.

Are there strict formal requirements that limit the extent of sole sourcing?

Formal provisions

According to Article 23 of the Law on Procurements procurement by sole sourcing is applied if: goods, works and services are possible to procure from only one entity, which is conditioned by the seller's copyright, absence of competition and existence of the appropriate license; there is an extremely urgent and unforeseen need for goods, works and services, and bidding becomes impossible because of time constraints, if it was impossible to foresee such need initially and it was not an outcome of the actions of contracting authority; technical peculiarities of works require additional procurement with

the same entity, if the price is not exceeding the price of the initial contract by 20% (such additional procurement can be performed only once).

What actually happens

In practice, according to experts' opinion, sole sourcing remains the major type of public procurement. This is done through artificially fitting the procurement requirements to the requirements of single sourcing.

Are all major public procurements widely advertised to the private sector?

Formal provisions

Article 6 of the Law on Procurement requires all open competitions to be announced in the "*Official Bulletin of Procurement*". The announcement should include information about procurement tenders; explanations of the tender inquired by any participant of the tender; changes of the tender parameters; notices on not succeeded tenders; and data related to the signed contracts. According to the Government Decision #1267, December 27, 2001, the Ministry of Finance and Economy should send the announcement on open bid to print press outlets having at least 3,000 circulations and (or) to other media within 3 working days after its publication in "*Official Bulletin of Procurement*".

Article 25 of the Law on Procurement also requires publication of announcements in the international media outlets of at least 10 countries for the tenders of the goods and services exceeding 90 times of the procurement basic unit (90,000,000 AMD or approximately $160,700) and for the tenders of works exceeding 500 times of the procurement basic unit (500,000,000 AMD or approximately $893,000).

What actually happens

All information required by the Law is published in the "*Official Bulletin of Procurement*". Other legal requirements are also followed.

Are procurement decisions made public?

Formal provisions

Yes, Article 12 of the Law on Procurement requires that the contracting authority should publish about its decision in the "*Official Bulletin of Procurement*" within 20 working days after making the decision.

What actually happens

Formal provisions are followed.

Is there a procedure to request review of procurement decisions?

Formal provisions

Yes, Articles 45 - 50 of the Law on Procurement give to every legal entity the right to complain if the actions of contracting authority brought about or can bring about losses to that entity.

What actually happens

Formal provisions are followed.

Can an unfavourable decision be reviewed in a court of law?

Formal provisions

Yes, according to Article 50 of the Law on Procurement, the decisions on complaints made to the procuring authority or procurement agency can be appealed to the courts.

What actually happens

The representative of the State Procurement Agency mentioned that so far 4-5 cases have been reviewed in courts.

Are there provisions for blacklisting of companies proved to have bribed in a procurement process?

Formal provisions

No.

What actually happens

Informal practices of blacklisting do not exist.

Are there rules and procedures to prevent nepotism/conflict of interest in public procurement?

Formal provisions

Yes, Article 7 of the Law on Procurement restricts participation of the legal entities in the procurement if any founder of that entity is a member of the procurement bidding committee, official representative or close relative of the procuring authority. The same Article requires the bidders to submit official documents to the bidding committee pointing that they do not have official representatives or close relatives in the procurement authority.

What actually happens

This creates sufficient legal basis for the prosecution of those bidders who submitted false information. However, the Law on Procurement does not provide mechanisms for procurement authorities to check the official documents submitted by the bidders, and, theoretically, such cases can be revealed only through media or information provided by other bidders. In practice, so far, the procurement authorities have not detected such incidents.

Are assets, incomes and life styles of public procurement officers monitored?

Formal provisions

There are no special legal provisions on monitoring income and assets of the state officials involved in the procurement process. The same Law on Declaration of Incomes and Assets of High State Officials and the Law on Amendments and Additions to that Law apply to senior officials working in the Ministry of Finance and Economy, but not to those working in the State Procurement Agency, which is not included in the list of institutions, senior officials of which are subject to declare their income and assets.

What actually happens

In fact, some senior officials of the State Procurement Agency are still submitting their declarations of income and assets, along with their close relatives, simply because their previous positions in the Agency (which then had a status of the institution under the Government) were required to do so during 5 years after leaving the office. However, there is no information on how correctly the legal requirements are followed.

Ombudsman

Is there an ombudsman or its equivalent (i.e. an independent body to which citizens can make complaints about mal-administration)?

As of December 2003, the institution of Ombudsman or its equivalent does not exist in Armenia. The National Assembly passed the Law on the Human Rights Defender (Ombudsman) on October 21, 2003 that will enter into force on January 1, 2004. According to Article 27 of the Law, the President of the country should appoint the first Ombudsman within two months after the date of enforcement (until March 1, 2004).

Investigative/Watchdog Agencies

There is no specific anti-corruption agency in Armenia. According to the Armenian Criminal Procedural Code, the Prosecution, the Police and the National Security Service have the power to make a preliminary investigation, while only the Prosecution can initiate criminal prosecution on corruption cases.

Media

Is there a law guaranteeing freedom of speech and of the press?

Formal provisions

Yes, Article 24 of the Armenian Constitution guarantees freedom of speech, including the freedom to seek, receive and disseminate information and ideas through any means of information. Articles 2 and 3 of the Law on Press and Other Means of Media, which was in force until the end of 2003, Article 4 of the Law on TV and Radio reinstate this constitutional provision.

Is there censorship of the media?

Formal provisions

There is no provision in the Armenian Constitution prohibiting censorship. However, Article 2 of the Law on Press and Other Means of Media prohibits censorship of media, while Article 4 of the Law on TV and Radio prohibits censorship in TV and radio.

What actually happens

Explicit censorship does not exist in Armenia. However, there have been instances of implicit censorship, when obstacles have been created to prevent the publication of undesirable information (either by threatening the reporter or even using physical violence against him, or suing him/her in the court) in the newspaper or prevent its access to public (the person(s)/company buys all or most of the issue of the newspaper and then destroys it). The editors of newspapers or heads or editors of TV or Radio Companies can advise the reporter not to write about a particular issue.

Is there a spread of media ownership?

Formal provisions

Article 8 of the Law on Press and Other Means of Media provides that registered legal persons can found media outlets. Article 16 of the Law on TV and Radio allows the existence of private TV and Radio Companies. It defines as private all TV and Radio companies founded by physical or legal persons.

What actually happens

Currently, almost all central periodicals are privately owned. Exceptions are *Hayastani Hanrapetutyun* and *Respublika Armenia* (a Russian language newspaper), which are funded by the state. Officially, there is one – Public Television and Radio Company – that is also funded by the state.

Does any publicly-owned media regularly cover the views of government critics?

Formal provisions

Articles 28-36 of the Law on TV and Radio regulates the operation, status and principles of functioning of Public Television and Radio Company. In particular, Article 28 declares that it should be guided by the principles of objectivity, democracy and impartiality, and secures freedom of speech. The same Article also prohibits dominance of any political orientation in TV or Radio broadcasts. Article 3 of the Law on Press and Other Means of Mass Media defines pluralism and freedom of opinion and tolerance among the guiding principles of media regardless of their ownership.

What actually happens

Public Television and Radio Companies regularly cover the views of government critics. However, this coverage not always gives an opportunity to the government critics to express their views themselves. Usually, reporters comment the views of government critics, and frequently these comments are pro-governmental. This was especially evident during the recent Presidential elections, when Public TV and Radio was very biased against the oppositional presidential candidates.

Have journalists investigating cases of corruption been physically harmed in the last five years?

There were two cases when journalists claimed that there were beaten for investigating corruption cases. In one case, it was the incident with Mher Ghalechyan, a journalist of *Chorrord Ishkhanutyun* newspaper, on April 29, 2003. Media reports on this incident referred to the Head of the National Security Service Karlos Petrosyan to allegedly be indirectly involved in the case.

Does the media carry articles on corruption?

Yes, it is done on a regular basis. However, most publications are in opposition media, especially such newspapers as *Aravot*, *Haykakan Zhamanak*, *Ayb-Fe* and *Chorrord Ishkhanutyun* dailies, electronic newsletter of the Association of the Investigative Journalists and others.

Do media licensing authorities use transparent, independent and competitive criteria and procedures?

Formal provisions

According to the Armenian legislation, only private TV and Radio Companies are required to be registered and get licenses for broadcasting their programs. Print media outlets are to be registered only. Article 8 of the Law on Press and Other Means of Mass Media provides the information that the media outlets are required to submit to the Ministry of Justice for registration. This information contains only formal data, such as the name of the founder, name of the issuer, name of the media outlet, its address, language, periodicity, volume, financial source and sponsor.

The National Commission on Television and Radio is the authorized body to issue or reject licenses, as well as to organize the bidding for the TV frequencies. Its members are appointed by the President (see Article 39 of the Law on TV and Radio). In regulating the licensing of TV and Radio Companies the Commission is guided by Articles 47-55 of the Law on TV and Radio, which set the procedures and criteria for licensing. In particular, Article 50 sets the criteria for selecting the owner of the license. These criteria are the priority of the programs to be produced by the applicant, the priority of domestically produced programs, technical and financial capabilities of the applicant, and professional level of the staff. Article 51 sets the criteria for the rejection to give license, such as non-eligibility of the applicant, false information provided by the applicant and absence or insufficiency of technical capabilities of the applicant to organize broadcasting. Article 47 of the Law provides that licenses are given to the winners of the open bids to ensure transparency and competitiveness of licensing procedures.

What actually happens

As in any contest, the application of the criteria for deciding the winner depends on how professional and impartial are the members of the National Commission on Television and Radio. The fact that the President of the country appoints all members of the Commission gives grounds to many experts to claim that it is not impartial.

In April 2002, *A1+*, a well-known oppositional TV Company, lost its bid on obtaining frequency and, thus, license for broadcasting. Since then, *A1+* participated in all bids held by the Commission (in July, October and December 2003) and lost all of them. There is a widespread public opinion shared by local and international experts that the mentioned oppositional TV Company lost the bids unfairly, as a result of politically motivated decisions of the National Commission on Television and Radio.

Are libel laws or other sanctions (e.g. withdrawing of state advertising) used to restrict reporting of corruption?

Formal provisions

Article 30 of the Law on Press and Other Means of Mass Media establishes liability for publishing false, offending or discrediting information. Article 24 of the Law on TV and Radio declares inadmissibility of the abuse of TV and radio broadcasts. Also, the new Armenian Criminal Code entered into effect in August 2003 contains Article 135 on libel. This means that one can legally use criminal sanctions to restrict reporting corruption, labeling such reports as libel, false, discrediting or offending. Armenian journalists, supported by international organizations, including the Council of Europe, are currently campaigning to decriminalize libel by removing that Article from the Criminal Code.

What actually happens

So far authorities have not used libel laws to restrict reporting of corruption by media. However, a more common practice used by authorities or state institutions is to file civil suits demanding to refute the information published or broadcast in the media outlet. One recent example is such suit filed by the Central Bank against *Aravot* daily in March 2003.

Civil Society

Does the public have access to information and documents from public authorities?

Formal provisions

Yes, according to Article 24 of the Armenian Constitution, everyone is entitled to freedom of speech, including the freedom to seek, receive and disseminate information and ideas through any medium of information, regardless of state borders. Article 6 of the Law on Freedom of Information supports that constitutional provision. Article 6 of the Armenian Constitution envisages that all laws enter into force only after their publication. Articles 48-58 of the Law on Legal Acts states that laws, decrees of the President of the country, decisions of the Prime Minister and the Government, the NA and the Constitutional Court, and international conventions, shall be published.

Citizens can get information on the approved legal acts through "*Official Bulletin"* and *"Bulletin of Normative Acts"* (available for free in public libraries as well as for subscription and sale), other official publications, government and non-government websites and newspapers. Some legal acts such as the Law on Urban Development, Law on Local Self-Government, Aarhus Convention, etc. also have provisions related to access to information. Before the recent enforcement of the Law on Freedom of Information, access to information/documents from public authorities was regulated by the Law on Citizens' Suggestions, Applications and Complaints.

As well, state institutions such as ministries, agencies, committees, councils, commissions, etc., can have appropriate internal regulations on how to deal with citizens/customers inquires and complaints. In some cases, information can be obtained through paying a state duty of 1,000 AMD (less than $2), as stipulated by the Law on State Duty. In the meantime, Article 59 of the Law on Legal Acts stipulates that information containing a state or official secret is not subject to publication. The Law on State and Administrative Secrecy and other related acts limit provision of information in certain areas.

What actually happens

Actual access to information/documents to be obtained from the Armenian state institutions is quite limited. Public officials may ignore inquiries submitted by citizens or legal entities in the form of letters/applications. Delayed or ambiguous answers or letters from officials, who are in charge of public relations or customer service department, are commonplace in the Armenian reality. Websites are not complete and accessible to everybody, bulletins and other paid sources of information are not affordable for most NGOs and average citizens.

Uncertainty of laws and regulations combined with the lack of respective knowledge of applying persons or organizations leave a room for arbitrary decisions of public officials typically based on their free interpretation of the appropriate legislation. The Armenian legislation also makes possible to hide information requested from the state institutions because of its secrecy. Basically, quite few successful cases of suing public officials or state agencies for not providing the requested information are determined by the absence of effective complaint mechanisms and public mistrust in the current judicial system. In the meantime, those NGOs that are taking decisive and consistent actions and pretty much aware of the respective regulations and procedures mostly succeed in obtaining the requested information, if it is not politically sensitive.

Do the public authorities generally co-operate with civil society groups?

There are evidences of such cooperation in Armenia in the fields of human rights, social issues, environment, business sector development, etc. Some NGOs and business associations are nowadays represented in the state commissions and advisory councils under the state institutions such as the Business Council under the Prime Minister of Armenia. In some cases, donors invite NGOs to participate in their projects with the Government. For example, various NGOs have been involved in the development of the National Poverty Reduction Strategy Paper approved in August 2003.

In 2002, representatives of the Anti-Corruption NGO Coalition were invited to one meeting and one workshop related to the development of the National Anti-Corruption Strategy. 8 member-organizations submitted their comments and recommendations to the group of experts who were drafting the Strategy that time. There was no feedback from the Government; only one expert sent a personal letter to thank NGOs for their contribution. Next year, the new version of the Strategy was approved by the new Government and signed by the President, with no public participation.

In NGO leaders' opinion, the openness of state authorities very much depends on two factors – the degree of politicization of the discussed topic and that of the recognition of the given NGO or a group of NGOs. Overall, there is no culture of equal partnership and active dialogue between state authorities and civil society representatives in Armenia. Frequently, civil society representatives are involved in implementation of the development projects and discussion of its results under the pressure of international community rather than at the initiative of state authorities. Generally, state officials do not consider NGO representatives as competent experts who can make a valuable contribution to the development of the country.

Are there citizen's groups or business groups campaigning against corruption?

Armenian NGOs are mostly involved in anti-corruption by implementing their projects, with no active cooperation with the Government or the NA. Though only few NGOs have specific anti-corruption projects, many others implement projects that include anti-corruption elements such as access to information, improvement of the current legislation, protection of the rights of citizen's or business groups, etc. Most of those organizations were members of the National Anti-Corruption NGO Coalition that was established in 2001 under the umbrella of the CRD/TI Armenia and later transformed into Anti-Corruption NGO Network.

So far, limited individual efforts have been taken in Armenia to organize a broad public awareness campaign against corruption. Donor community did not specifically support anti-corruption programs until the Government of Armenia expressed its willingness to start developing a national anti-corruption strategy. After adoption of the Strategy, media became much more active in covering corruption-related topics. In 2003, the CRD/TI Armenia, with support of ABA/CEELI and the British Government initiated the first stage of a nationwide anti-corruption campaign – production and broadcasting of anti-corruption Public Service Announcements and documentary films. Campaign also involves public discussions, participation in TV and Radio programs, exhibition of posters, essay contests, etc., in close cooperation with other interested parties.

Are there citizen's groups monitoring the government's performance in areas of service delivery, etc?

As to public monitoring, there are some NGOs that carried out monitoring of various public services and sectors, namely, the Association of Investigative Journalists (judiciary, local government, environment, etc.); A. D. Sakharov Human Rights Protection Armenian Center (the notary's offices); Helsinki Committee of Armenia (prisons); Yerevan Press Club (pre-election media coverage); It Is Your Choice (elections), CRD/TI Armenia (pre-election party finances, environment and education); and others.

In the meantime, because of closeness of the governance system and unwillingness to promote public monitoring of the public sector it is hard to conduct monitoring in any sector. First, it is related to the difficulties in gathering information, approaching the public officials, visiting "closed" institutions, etc. Secondly, most Armenian NGOs do not have enough knowledge and practical skills in the filed of monitoring related to anti-corruption issues. But, while it is possible to develop the NGO monitoring capacity through organizing training programs and pilot monitoring projects, still unwillingness of authorities to open "doors" to civil society groups remains a major problem.

Do citizen's groups regularly make submissions to the Legislature on proposed legislation?

Formal provisions

According to Article 75 of the Armenian Constitution, only members of the NA and the Government have the right to take a legislative initiative, therefore, citizen's groups can promote their legislative initiatives exclusively through those ways mentioned above.

What actually happens

Typically, NGO representatives are not regularly invited to the hearings organized by the Commissions of the NA. As a rule, citizens' groups either approach individual parliamentarians or apply to appropriate Ministers with the request to consider their legislative initiatives or comments on the proposed legislation. Sometimes, the submissions made by NGOs or business associations raise the issue of how important is such a legislation and lead to its further drafting, with participation of the interested NGOs (e.g. legislation on the rights of handicaps, refugees or alternative military service).

More often though, the NGO experts are involved in making amendments or comments on the draft legislation that has been already submitted by the Government to the NA. In other cases, the NGOs-Legislature cooperation results in having the final version of the legal document based on both drafts submitted by NGOs and the state institution. Exceptional are the cases when the strong anti-campaign is organized by civil society representatives to take the draft law off. Meanwhile, it should be noted that only few Armenian NGOs are capable to draft the legislation on their own, with no assistance.

Does the education system pay attention to integrity issues and corruption/bribery? Is it expected to?

Education sector in Armenia itself is perceived as quite corrupt. According to the results of the 2002 "Country Corruption Assessment: Public Opinion Survey" (see "Corruption Profile" Chapter for details), 65.7% of the interviewed 1,000 households marked this sector as "corrupt", "very corrupt" and "extremely corrupt"; and 55.0% of the 200 surveyed public officials shared this opinion. Not surprisingly there are no special educational programs or university curricula are available today to cover the integrity and corruption-related issues. Nor special provisions can be found in this respect in the National Program of Education Sector Reform.

Regional and Local Government

Are there, at regional and local level, rules and disclosure provisions similar to those operating at national level on nepotism, conflict of interest, gifts and hospitality, and post public office employment?

Formal provisions

There are no special provisions in the Armenian legislation to regulate these issues at regional (Marz) and local (community) levels except those envisaged by the Law on Local Self-Government and partially by the Presidential decrees on Public Administration in Yerevan and Marzes. Normally, regulations concerning the abovementioned issues target all the levels of government.

According to the abovementioned Articles, the Member of the Avagani (Community Council of Elderly) shall not work in the Office of the Head of the same Community, or be the Head of the Community budget institutions and other organizations. He/she shall not be the Head of other community, as well as to work in law enforcement, national security or judicial bodies. The Member of the Community Council shall not participate in making decisions which are affecting his/her personal interests or interests of his/her family members and close relatives (parents, brothers, sisters, and children). Finally, the Head of the Community has no right to hold another public offices or be involved in paid services other than creative activities. As to similar restrictions for positions of the Yerevan Major and those of Marzpets, they are stated in Point 1.6 and Point 1.6 of the Presidential Decrees #727 and #728, respectively.

Article 123 of the Electoral Code stipulates that all candidates for the position of the Head of Community and members of the Avagani shall submit the declarations of their income and assets to territorial electoral commissions. The Law on Assets and Income Declaration of High State Officials, along with other legal acts, requires, among other high officials, judges, Heads of the Prosecutor's territorial units and territorial departments of Ministries, Marzpets and Mayor of Yerevan City and their Deputies, as well as Heads of the Communities, to declare the state of their assets and income on a yearly basis. While regional administration staff is considered as Civil Servants and subject to the provisions of the Law on Civil Service, local administration staff has no special status and thus free from such obligations.

What actually happens

Since there is no strict control over those issues, most regional and local officials are thought to be illegally involved in various activities forbidden by the law. Cronyism, nepotism and conflict of interests still prevail within the state institutions at all level of government.

What public offices at regional and local level are appointed by the national government?

Except the staff of local-government bodies, all public offices functioning at regional and local levels are appointed by the national government. This refers to Marzpetarans (regional government bodies), territorial departments, agencies and other state institutions (prosecutors' offices, courts, tax, treasury, police, national security, health, education, etc.). The President of the country makes appointments to political positions, while the Government appoints to discretionary and civil service positions.

Is there a legal requirement that meetings of city/ town councils be open to the press and public?

Formal provisions

As mentioned in Article 14 of the Law on Local Self-Government, meetings of the Community Councils shall be open. In some cases though, they may be held behind the closed doors upon the decision of the Council adopted by two/thirds of its members present at meeting. The Councils may specify those cases in their charters, but normally they make special decisions on this or that particular case.

What actually happens

Usually, citizens and media representatives can attend the Council's meetings with no difficulties and this very much depends on how active they are and how open is the Head of Community who, in fact, typically controls the Council Members.

Are there clear criteria restricting the circumstances in that city/town councils can exclude the press and public?

N/A.

Do national agencies with a remit to deal with corruption (anti-corruption agencies, ombudsmen, supreme audit institutions, and so on) work at regional or local levels and are there specific agencies with regional and local responsibilities?

Yes, they do. For instance, according to Article 6 of the Law on the Chamber of Control of the National Assembly, the latter is authorized to review and control the implementation of the state budget, state programs and contracts, use of the budget transfers, use of payments of loans and credits, etc., at all levels. Courts, tax authorities, police, prosecutor's and other offices are operating at regional and local level as a part of the centralized national system.

Progress with Government Strategy

Has the government announced an anti-corruption strategy and a timetable for implementation?

In the beginning of 2002, within the IDF Grant Program of the World Bank, the Government of Armenia started the development of a National Anti-Corruption Strategy Paper by a group of local and foreign consultants. The interim draft of the Paper was discussed at the workshop held in July 2002 with participation of representatives of state authorities, civil society and donor community. Since then, several versions have been drafted, with no public participation. The last version of the Strategy was prepared by the Coalition Government formed in June 2003. It was approved by the Government on November 6, 2003, signed by the President on December 1, 2003, and published in *"Official Bulletin"* on December 10, 2003. On the same day it was published in the state-owned *Hayastani Hanrapetutyun* daily. The Strategy Program includes the Action Plan for 2003-2007.

How much of the strategy has been implemented?

N/A.

Is the strategy at national level or regional/local level?

It covers all three (national, Marz and community) levels.

Is the government meeting its own timetable?

It is early to make a conclusion, as of December 2003.

Donor Anti-Corruption Initiatives

Which bilateral and multilateral donor agencies are based in the country?

The main donor agencies located in Armenia are the following: the World Bank, IMF, USAID, EBRD, DFID, GTZ, EU, UNDP and other UN structures, CoE, SDC, OSI, etc.

What types of anti-corruption initiatives have they supported?

Until now, donors located in Armenia have funded only few programs specifically focusing on anti-corruption such as the development of the National Anti-Corruption Strategy (the World Bank); a study tour to Bulgaria for government officials, the NA and NGO representatives to learn how to develop an Anti-Corruption Strategy (USAID/AED); conducting a country corruption survey (USAID and British Government) and a national integrity system study (British Foreign and Commonwealth Office); establishment of the National Anti-Corruption Resource Center (SDC); development and broadcasting of anti-corruption films (ABA/CEELI, OSCE and British Government); a training for journalists on anti-corruption issues (OSI-AFA); anti-corruption grant programs for NGOs (USAID/World Learning, Armenia); etc. The CoE assisted in organizing conferences and workshops and brought the European experts to share their experience in relevant fields.

A number of donor organizations funded participation of the Armenian delegations in various anti-corruption conferences and workshops (USAID, DFID, German Embassy, OSI-AFA, etc.). There are numerous other projects that are worth mentioning, since they either incorporate anti-corruption elements or promote some anti-corruption measures such as public sector and judiciary reforms, freedom of information and independent media, public awareness and local capacity building, development of financial and audit institutions, promotion of business environment, etc.

Are there any examples of donors cooperating or coordinating their programs?

Yes, there is the Joint Task Force under the coordination of the OSCE Yerevan Office that includes the representatives of the main donors and diplomatic missions such the WB, IMF, USAID, UNDP, DFID, EU, CoE, EBRD, SDC, as well as the US, British, German, Italian and Russian Embassies. It is formed to coordinate the donors' assistance to Armenia in the field of anti-corruption.

Future Research and Donor Support

Can key areas or issues be identified in terms of corrupt activity that the research for the report has demonstrated as requiring immediate attention, and which are they?

- No real manifestation of political will to fight corruption;
- Absence of support for the anti-corruption strategy by all main stakeholders;
- Lack of consensus among political parties that formed the Government;
- Dominance of the institute of the Presidency and the Executive over other institutions;
- Lack of political and financial independence and autonomy within the system of governance;
- No actual separation of power and check-and-balance mechanisms;
- Concentration of political and economic powers in hands of a small “elite” group and indications of state capture by this elite;
- Imperfect legal framework (especially, secondary legislation) aimed at ensuring transparency and accountability of the Government;
- Poor law enforcement, absence of effective control and punishment and thus low risk of corrupt behaviour;
- Weak institutional capacity of all basic NIS pillars;
- Political and economic reforms perceived by the general public as a big failure;
- Mistrust towards anti-corruption initiatives taken by the Government and donor community;
- Poor economic conditions, along with unsolved social problems;
- Low public participation in political processes;
- Lack of understanding of costs of corruption and high tolerance to corruption.

Is there a particular aspect of corrupt activity either particular to the country concerned, or significant in terms of effect or impact, that would require more in-depth research?

It is needed to evaluate political, economic, social and human costs of corruption in order to demonstrate to the authorities and citizens what they would face when tolerating corruption. Cultural, moral and societal aspects of high tolerance to corruption in Armenian society should be also examined. Current situation in the field of anti-corruption should be reviewed; all past and ongoing donor strategies and programs, aimed at promotion of transparent and accountable governance, should be re-assessed as well.

Lessons learned should be taken into consideration to draft guidelines for designing new programs or re-designing current ones. Best practices of anti-corruption measures all over the world should be reviewed to identify the most applicable ones in the context of the current political and economic developments in the country. It is equally important to develop indicators (benchmarks) for monitoring anti-corruption government programs funded by multi- and bilateral donors.

How to promote more transparency and accountability of Armenian state institutions? What would encourage the Government to cooperate with civil society? Will adoption of a special anti-corruption legislation be more effective than incorporation of anti-corruption elements in all relevant legal acts, regulations and procedures? Whether establishment of an anti-corruption body in Armenia is more operational than delegation of more power to existing institution(s)? Should such a body be policymaking (or coordinating) or performing investigative functions? All these issues closely related to the problem of poor law enforcement and the lack of institutional capacity are to be studied before initiation of a new stage of legal and institutional reforms.

Even more important is to answer the question if a body involved in anti-corruption activities could be independent in today's Armenia? How to vest more power to the Legislature, grant more independence to the Judiciary and prevent domination of the Executive (Presidency) over other institutions? How to secure independent functioning of the Chamber of Control and other control (or watchdog) institutions? This is another priority for further research - a legal and institutional study should be carried out to make recommendations on how to ensure true separation of power and secure check-and-balance mechanisms within the country's government system.

Is there a particular approach or initiative to combating corruption that may be considered for further research or study as an example of best practice?

N/A.

Can key areas or issues relating to possible anti-corruption initiatives be identified as requiring donor support?

- Prioritizing and coordinating anti-corruption activities.
- Improving appropriate legislation to ensure more transparency and accountability.
- Securing law enforcement and increasing risk of corrupt behaviour.
- Supporting institutional capacity building (public services; Judiciary; control, watchdog and regulatory institutions; Legislature, political parties, election system, civil society, media, business, etc.).
- Revising the National Anti-Corruption Strategy and monitoring its implementation.
- Ensuring civil society participation in anti-corruption policy process.
- Promoting education and awareness programs to reduce tolerance to corruption.

Can key areas or issues relating to anti-corruption initiatives be identified in terms of forming the basis for potential donor prioritisation, sequencing, cooperation and coordination?

Given the absence of political will and the lack of institutional capacity to implement anti-corruption reforms in Armenia, the role of donors is becoming increasingly important. In this respect, donors should:

- Analyse the current situation in the filed of anti-corruption;
- Re-assess past and ongoing strategies and programs aimed at promotion of transparent and accountable governance;

- Conduct adequate needs assessments and make concrete recommendations, with the help of competent foreign and local experts, in order to improve the effectiveness of reform;
- Form working groups by particular field of interests and expertise for better donors' coordination and cooperation;
- Re-design relevant strategies and programs to meet actual needs and rely on available resources;
- Strengthen the role of the Anti-Corruption Joint Task Force;
- Publicize information about their strategies, programs and activities (as well as the main failure and success stories) in native language;
- Choose contractors, partners or grantees in a more transparent manner to ensure more competitive selection and fair allocation of funds;
- Demand more transparency and accountability from their counterparts from the Government and contractors;
- Evaluate and monitor performance of local offices and their staff, and make public names of those behaving improperly or acting illegally.

Donors should take into consideration the following issues for potential prioritization, sequencing, cooperation and coordination of their anti-corruption activities:

- Promoting law enforcement, in parallel to improving the existing legislation and bringing the secondary one into conformity with the main laws in areas such as political and financial decentralization; freedom of information and independence of media; public participation in decision-making; disclosure of assets and income for all public officials and control over it; transparency of decisions made at all level of government; prevention of conflict of interest, nepotism, cronyism; accountability and impunity of public officials and the NA members.
- Adopting and enforcing effective mechanisms of ensuring fair elections through strengthening the party system, making electoral commissions more accountable to the public and giving more rights to proxies and observers are also vital to adopt.
- Creating favourable environment for business development and furthering anti-monopoly policy.
- Strengthening institutional capacity to ensure effectiveness, efficiency and interrelation of all institutions (Executive, Legislature, Judiciary, political parties, election system, supreme audit institution, civil service, police and prosecutors, local government, etc.).
- Enhancing active public participation in the policy reforms through establishing permanent mechanisms of civil society involvement (public hearings, consultations, advisory groups, etc.), as well as via building local capacity to demand more transparency and accountability from the authorities (monitoring, lobbying, advocacy, etc.).
- Establishing a dialogue between state authorities and civil society representatives to promote partnership in all stages of policymaking process (agenda-setting, formulation, implementation and evaluation).
- Strengthening the capacity of media to investigate corruption-related cases, monitor government programs and participate in anti-corruption campaigns.
- Supporting educational and public awareness programs on corruption-related issues, etc.