

6.4 Europe and Central Asia

Armenia

Corruption Perceptions Index 2008: 2.9 (109th out of 180 countries)

Conventions

Council of Europe Civil Law Convention on Corruption (signed February 2004; ratified January 2005)

Council of Europe Criminal Law Convention on Corruption (signed May 2003; ratified January 2006)

UN Convention against Corruption (signed May 2005; ratified March 2007)

Legal and institutional changes

- In September 2007 the post of the head of the Anti-Corruption Strategy Monitoring Commission was filled after being vacant for three months. Gevorg Mheryan, assistant to the president, became chairman of the commission. At a 7 September meeting of the Anti-Corruption Council,¹ Mheryan stated that there was a need to develop a new strategy and action plan and that previous plans could be considered as having been completed based on reports by the commission and the protocols of the council. At the beginning of 2008 an expert group was set up consisting of local anti-corruption experts. Following terms of reference designed earlier, they set about developing a new strategy and presented the first chapter to civil society and international organisations for suggestions and feedback.
- In 2007 Armenia began implementing the Council of Europe's Group of States against Corruption (GRECO) recommendations. According to the report² submitted to GRECO in September that year, Armenia implemented ten recommendations completely, seven recommendations were implemented partially and seven were not implemented at all. Based on this information, GRECO experts prepared a compliance report, which was adopted at the thirty-eighth GRECO meeting in June 2008.
- In June 2007 a new constitutional provision came into effect, following amendments made during a referendum held on 27 November 2005.³ The provision made the Control Chamber of the Republic of Armenia, the supreme audit institution, an

¹ *Hayastani Hanrapetutyun* (Armenia), 8 September 2007.

² At its twenty-seventh plenary meeting on 10 March 2006, GRECO officially submitted to the Armenian government twenty-four recommendations developed in the framework of the 'Joint First and Second Round Assessment Report' carried out by the GRECO evaluation team during its visit to Armenia in May–June 2005.

³ Article 83.4 of the constitution of the Republic of Armenia.

independent body; previously it had been under the authority of parliament. Parliament appointed the new chairman of the chamber on 5 November 2007.⁴

- In May 2007 the new Law on the Office of the Public Prosecutor brought several important changes related to corruption.⁵ The changes include new procedures for appointing the prosecutor general and prosecutors, the establishment of a school for public prosecutors and a new system for sanctioning prosecutors. The law also establishes a new commission of ethics and a new system of remuneration for prosecutors and other employees working in the offices of public prosecutors. In addition, the prosecutor general will no longer be able to carry out pre-trial investigations. Formerly there had been opportunities for abuse of power, as the same body had been able simultaneously to conduct criminal investigations and oversee the legality of the investigations; these functions have now been separated.
- On 11 October 2007 a new Law on Securities Market Regulation was adopted.⁶ The law protects the rights and lawful interests of investors, and promotes transparency and the sustainable and efficient development of the securities market, thus improving the reliability of the securities pricing system and the reduction of systemic risks in the securities market.
- On 22 October 2007 the Armenian parliament adopted the Law on Operational-Investigative Activities.⁷ This law was included in the action plan of the first anti-corruption strategy. It defines the form of investigative activities carried out by government agencies,

including their rights and duties, types of operative-investigative activities, and control and oversight. Civil society organisations have raised concerns that it might be used for political purposes. These fears were confirmed when law enforcement agencies were found tapping the conversations of opposition politicians during and immediately following the presidential election campaign.

- Several changes were implemented that could help in reducing corruption, including the Law on Fixed Payments (July 2007), the Law on the Organisation and Implementation of Inspections (11 October 2007), the Law on Simplified Tax (3 July 2007) and the Law on the Declaration of Property and Income of Physical Persons (18 December 2007).⁸

Company leadership in jail for revealing corruption in customs service

The customs system is considered to be one of the most corrupt services in Armenia. According to the results of a 2006 survey by the Transparency International Anti-corruption Center (TI AC; formerly CRD/TI Armenia), 85 per cent of respondents considered the customs system to be 'partially corrupt', 'corrupt' or 'very corrupt'.⁹

This perception was confirmed by President Serzh Sargsyan in his meeting with the State Customs Committee (SCC) on 17 April 2008,¹⁰ when he drew attention to the extensive smuggling of goods by businesspeople who conspire with customs officers, as well as other attempts at evading customs duties. The presi-

4 *Official Bulletin of the Republic of Armenia*, vol. 55 (579), 14 November 2007.

5 *Official Bulletin of the Republic of Armenia*, vol. 19 (543), 11 April 2007.

6 *Official Bulletin of the Republic of Armenia*, vol. 53 (577), 31 October 2007.

7 *Official Bulletin of the Republic of Armenia*, vol. 59 (583), 28 November 2007.

8 All these laws are published in the *Official Bulletin of the Republic of Armenia*: volumes 37 (561), 2007; 54 (578), 2007; 37 (561), 2007; and 2 (592), 2008, respectively.

9 Center for Regional Development/Transparency International Armenia and UNDP, '2006 Corruption Perceptions in Armenia' (Yerevan: CRD/TI Armenia/UNDP, 2006).

10 Armenialiberty.org, 18 April 2008.

dent expressed concern about the State Customs Committee's (SCC's) unrestricted authority and ability to assess the value of imported commodities. Many journalists and experts,¹¹ however, have expressed scepticism concerning the existence of real political will to fight corruption, particularly considering that, in April 2008, President Sargsyan appointed Gagik Khachatryan as the new head of the office. Khachatryan had been directly involved in the following case.

On 26 July 2004 a press conference was held by Gagik Hakobyan, president of the Royal Armenia LLC joint venture (RA), and Aram Ghazaryan, RA's former managing director.¹² They claimed that, since the spring of 2003, the SCC had periodically discriminated against the company, which imports coffee (its share was 10 per cent of the total volume of coffee imports) and food into Armenia. The SCC was accused of ignoring company invoices and setting inflated customs prices for coffee, compared with other coffee importers. Based on comparable copies of customs declarations filed by RA and other importers, they demonstrated that at times they had paid 50 per cent more than other importers.¹³

Despite the RA filing suits against these actions, the SCC continued the same practice.¹⁴ Hakobyan alleged that Khachatryan, SCC's deputy head at the time, and Surik Fahradyan, an SCC department head, had demanded that RA pay bribes for the shipments, but that the company had refused.¹⁵ Hakobyan claimed

this refusal was the primary cause of the SCC's unlawful actions.

On 8 February 2005 the SCC filed a protocol against RA claiming that it had violated customs procedures, including misreporting the prices of coffee it imported – by both increasing and decreasing the official prices at different times.¹⁶ Such changes were allegedly made by falsifying invoices received from its trade partner, American FIG LLC. The National Security Service filed a criminal case against RA and initiated a criminal investigation. Hakobyan and Ghazaryan were arrested and taken into custody.¹⁷

There were also accusations that RA did not qualify as a joint venture company and thus had unlawfully enjoyed the privileges that Armenian legislation gives to such entities for customs fees and profit taxes. As a result, the company illegally avoided paying a total of AMD 525 million (about US\$1.7 million).¹⁸ This accusation was based on the opinion that the foreign shareholder of the company had become a shareholder illegally.¹⁹ At the press conference, RA management argued that the accusations were unfounded.

The trial in the Court of First Instance began in November 2006 and lasted until July 2007. Judge Pargev Ohanyan acquitted Hakobyan and Ghazaryan on 16 July, on the grounds that the argument presented was based on assumptions rather than evidence.²⁰ The Office of the Prosecutor General appealed to the review court, which reversed the initial verdict on 29

11 See, for example, www.armenialiberty.org/armeniareport/report/en/2008/04.

12 During the trial, Royal Armenia's lawyer submitted written materials on the case, including information about the press conference, to the representative of the Transparency International Anti-corruption Center.

13 Armenialiberty.org, 26 July 2004.

14 *Ibid.*

15 ArmeniaNow.com, 31 March 2006.

16 *Ibid.*

17 *Ibid.*

18 *Ibid.*

19 *Ibid.*

20 Armenialiberty.org, 16 July 2007.

November 2007 and sentenced the defendants to prison terms.²¹

This case is exceptional, because it demonstrates how businesspeople who consistently defended their rights and refused to submit to the illegal demands of the authorities were ultimately victimised and investigated on corruption grounds. Regardless of the RA's actual behaviour in this regard, the important conclusion is that the authorities appear to close their eyes to violations until the business in question 'sticks its head above the parapet' and makes life for the regime uncomfortable. Then, when the authorities do act, as in this case, the punishment can be as swift as it is severe.

An uncertain future for a private TV company

On 21 September 2007 Levon Ter-Petrosyan, the first president after Armenia's independence in 1991, delivered his first public speech since his resignation in 1998. He described the current regime as 'criminal and corrupt' and called for its ousting.²² The speech was televised by two television stations; one of them a small, privately owned company, GALA.²³ It broadcast parts of the event on the same day in its evening news programme, and then on 14 October it broadcast Ter-Petrosyan's entire speech.

GALA's owner, Vahan Khachatryan, claimed that on 14 and 15 October he was approached by officials from the National Security Service, who advised him to stop reporting on politics. The authorities deny this claim.²⁴ On 17 October Grigor Amalyan, chairman of the National Commission on Television and Radio (NCTR), allegedly invited Khachatryan to his office in Yerevan and gave similar advice, warned him against airing the speech.²⁵ In all three cases, Khachatryan claims he rejected these 'requests' and insisted he would continue to provide impartial information to his audience.²⁶

Allegedly, the authorities approached private businesses that advertised with GALA. GALA began losing its advertising contracts in October.²⁷ An official audit of the company began on 29 October, and on 14 November the State Tax Service submitted its final report, accusing Chap Ltd, the founder of GALA, of tax evasion due to underreporting advertising revenues.²⁸ It alleged that the company had avoided paying taxes worth AMD 26 million (US\$78,000). There were also allegations that Chap Ltd manufactured fireworks without a government licence in 2001, a crime indeed admitted by Khachatryan.²⁹

Chap Ltd objected to the tax evasion allegations, arguing that they were politically motivated and that the apparent inaccuracy arose from social

21 Hakobyan received six years in prison and Ghazaryan two years. Ghazaryan was freed in the courtroom immediately after the verdict was read because he had already spent nearly two years in prison, and Hakobyan's sentence was reduced by two years. The Office of the Prosecutor General demanded penalties milder than those it demanded when the case was tried in the Court of First Instance (twelve years for Hakobyan and eleven years for Ghazaryan).

22 Radio Liberty (Czech Republic), 21 September 2007.

23 Armenialiberty.org, 22 October 2007. Other Armenian TV stations did not broadcast that speech.

24 Armenialiberty.org, 31 October 2007; 12 November 2007; see also www.asparez.am.

25 Armenialiberty.org, 22 October 2007. Other Armenian TV stations did not broadcast the speech.

26 The 'Asparez' Journalists' Club NGO from Gyumri, actively involved in the support campaign of GALA, kindly submitted materials on this case to TI AC. These materials, as well as materials from www.armenialiberty.org, were used for the description of the case.

27 Armenialiberty.org, 31 October 2007; Armenia Observer Blog, 'Journalists from National Newspapers Visit Gyumri GALA TV in a Rare Act of Solidarity', 2 November 2007.

28 Armenialiberty.org, 31 October 2007.

29 Armenialiberty.org, 12 November 2007.

and self-made (individual) adverts that GALA broadcast for free.

On 26 November the State Tax Service asked the Economic Court to freeze the company's bank accounts and other assets amounting to the alleged tax shortfall, and on 3 December the court acceded to the demand.³⁰ The trial lasted until 19 March 2008, when the court upheld the accusations.³¹ The cash-strapped TV company paid its fine after a week-long fundraising campaign that concluded on 1 April.³²

In a parallel action, the mayor of Gyumri, where GALA is based, filed a suit in the Economic Court, requesting the removal of its transmitter from the TV tower located in the city, as the State Tax Service claimed it had been hosted there illegally.³³ On 29 February 2008 the court gave permission for the mayor's office to remove the transmitter.³⁴ GALA challenged this, and a delay was imposed on the removal, but on 14 April the Court of Appeal sustained the initial decision. As such, electricity was cut to the transmitter in order to force the company to dismantle it, but Khachatryan refused to do so and threatened to sue anyone who damaged his equipment. The company was finally granted a ten-day reprieve on dismantling the transmitter,³⁵ and at the time of writing the reprieve has been extended until negotiations between GALA and the Ministry of Transport and Communications on the use of the tower are completed.

As in the case of RA, it is difficult to assess whether the television company was truly guilty of the allegations levelled against it. The fact that the authorities started investigations after the broadcast of the political speech, however, has led many to see the investigations as political.

Varuzhan Hochtanyan (Transparency International Anti-corruption Center)

Additional reading

- J. H. Anderson and C. W. Gray, *Anticorruption in Transition 3: Who Is Succeeding and Why?* (Washington, DC: World Bank, 2006).
- CRD/TI Armenia and UNDP, *2006 Corruption Perceptions in Armenia* (Yerevan: CRD/TI Armenia/UNDP, 2006).
- A. Kostanyan and V. Hochtanyan, *Anti-corruption Policy in Armenia* (Yerevan: TI AC, 2006), available at www.transparency.am/publication.php?id=24.
- S. Rose-Ackerman, *Government and Corruption: Causes, Consequences, and Reform* (Cambridge: Cambridge University Press, 1999).
- TI, *Global Corruption Report 2004* (Ann Arbor, MI: Pluto Press, 2004).
- TI Armenia: www.transparency.am.

30 Armenialiberty.org, 4 December 2007.

31 Armenialiberty.org, 19 March 2008.

32 S. Vantsian, 'Gyumri TV Ends Fund-raising Campaign', Radio Liberty (Czech Republic), 1 April 2008.

33 Armenialiberty.org, 4 December 2007.

34 Armenialiberty.org, 25 March 2008.

35 S. Vantsian, 'Independent TV Granted 10-day Reprieve', Radio Liberty (Prague), 17 April 2008.