

**ASSESSMENT**

**OF THE REPUBLIC OF ARMENIA ANTI-CORRUPTION**

**STRATEGY AND ITS IMPLEMENTATION ACTION PLAN**

**FOR 2009-2012<sup>1</sup>**

**Yerevan 2013**

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<sup>1</sup>This assessment has been prepared by the experts of the Anti-Corruption Strategy Implementation Monitoring Commission.

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## **1. General information**

In the course of the last decade, the Government of the Republic of Armenia has undertaken a number of important steps in the field of the fight against corruption. By adoption of the anti-corruption strategy documents, the state policy on the fight against corruption has fully fledged, the key directions of the state policy on the fight against corruption have been set, the legislative framework has improved, and an institutional system of anti-corruption bodies has been introduced. Yet on 6 November 2003, under the Decision of the Government of the Republic of Armenia, the Republic of Armenia Anti-Corruption Strategy and its Implementation Action Plan was approved, followed by the Republic of Armenia Anti-Corruption Strategy and its Implementation Action Plan for 2009-2012, approved by the Decision of the Government of the Republic of Armenia No 1272-N of 8 October 2009 (hereinafter referred to as ACSIAP or Plan).

At the same time, since 2000 the principal guidelines of the Republic of Armenia anti-corruption strategy have continuously been enshrined in the programmes of activities of the Government of the Republic of Armenia, as well as in the action plans of the annual activity thereof. An importance is attached to creation of "free and fair Armenia" as a principal direction of the Programme of Activities of the Government of the Republic of Armenia approved by the recent Decision No 515-A of 16 May 2013, one of the main actions of which is the fight against corruption. The Government of the Republic of Armenia has set the elimination of causes giving rise to corruption, increasing transparency in the course of the process, underlining the priority of the preventive approach in the fight against corruption with responsible participation of the opposition.

The Government of the Republic of Armenia, under the Republic of Armenia Anti-Corruption Strategy and its Implementation Action Plan for 2009- 2012, has set the significant reduction of the overall level of corruption as a key goal of the anti-corruption strategy and a final expected outcome, and the principal expected outcomes are the elimination of the systemic nature of corruption, the significant limitation of the proliferation level of corruption, improvement of quality of public services rendered to citizens, improvement of perception of social justice, strengthening of stability of the political system, increasing of the country's economic

competitiveness.

For achievement of the mentioned goal and the key results, around 124 strategy provisions have been provided for by the document, which are divided into measures to be implemented in 2009, 2010, 2011 and 2012. For each measure, the body responsible for implementation of the measure, the expected result, the monitoring indicator of the assessment of the result and the source of financing have been specified.

For provision of the complete implementation of the state anti-corruption policy in the Republic of Armenia, the Anti-Corruption Council was established on 1 June 2004 under the Decree of the President of the Republic of Armenia and operates till present time (hereinafter referred to as Council)<sup>2</sup>. It is *ex officio* chaired by the Prime Minister of the Republic of Armenia. The Council is composed of the Vice President of the National Assembly of the Republic of Armenia, the Minister - Chief of Staff of the Government of the Republic of Armenia, the Minister of Justice of the Republic of Armenia, the Assistant to the President of the Republic of Armenia, the Prosecutor General of the Republic of Armenia, the Chairman of the Central Bank of the Republic of Armenia, the Chairman of the State Commission for the Protection of Economic Competition of the Republic of Armenia, the Chairman of the Control Chamber of the Republic of Armenia, and the Head of the Control Service of the President of the Republic of Armenia.

According to the Statute of the Anti-Corruption Council<sup>3</sup>, the key functions of the Council are: coordination of the works for implementation of measures of the Anti-Corruption Strategy Plan and implementation of observations over them, organisation and coordination of the process for drawing up of the agency-related anti-corruption plans and implementation thereof, undertaking of actions for implementation of measures, deriving from the international obligations and commitments etc.

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<sup>2</sup> The Decree of the President of the Republic of Armenia No NH-100-N of 1 June 2004 "On establishing an Anti-Corruption Council" as amended by the Decree of the President of the Republic of Armenia No NH-144-N of 21 June 2006 "On making an amendment to the Decree of the President of the Republic of Armenia No NH-100-N of 1 June 2004".

<sup>3</sup>The Statute of the Anti-Corruption Council has been approved under the Decree of the President of the Republic of Armenia No NH-100-N of 1 June 2004 "On establishing an Anti-Corruption Council".

An Anti-Corruption Strategy Implementation Monitoring Commission (hereinafter referred to as the Commission) was established attached to the Council, chaired by the Assistant to the President of the Republic of Armenia. The composition of the Anti-Corruption Strategy Implementation Monitoring Commission is: one member from deputy factions and groups of the National Assembly of the Republic of Armenia (by consent), the head of the delegation of the Republic of Armenia in the group of the countries fighting against corruption, the Secretary of the Commission of Public Administration System Reforms of the Republic of Armenia, the head of the working group in the anti-corruption initiative of the countries with transitional economy, the head of the Legal Department of the Government Staff of the Republic of Armenia, Chairperson of the Armenia's Chapter of the Center for Regional Development "Transparency International" (by consent), representatives of non-governmental organizations (by consent). The Chairperson and the members of the Commission participate in the activities of the Commission on voluntary bases, and the decisions of the Commission are of advisory nature.

The main functions of the Anti-Corruption Strategy Implementation Monitoring Commission are: conduct of observations over implementation of the anti-corruption strategy and agency-related anti-corruption plans, preparation of recommendations for improvement of the mechanisms for the fight against corruption.

For implementation of the anti-corruption policy, a decentralised system of the fight against corruption has been introduced in the Republic of Armenia, where the functions of the policy development, oversight and coordination are distinct from those performed by the specialised bodies of corruption detection and prosecution.

Detection and the preliminary investigation of the corruption-related crimes in the Republic of Armenia are conducted by the Special Investigation Service of the Republic of Armenia, the Police of the Republic of Armenia adjunct to the Government the Republic of Armenia, the National Security Service of the Republic of Armenia. Control of the preliminary investigation and inquest of corruption-related crimes, as well as pursuing charges of corruption-related crimes in

a court are carried out by the Prosecutor General's Office of the Republic of Armenia<sup>4</sup>.

## **2. Corruption trends in the Republic of Armenia**

The monitoring and assessment system of the Republic of Armenia Anti-Corruption Strategy and its Implementation Action Plan for 2009-2012 is hinged on the internationally recognised system of the corruption assessment indicators and the methodology thereof<sup>5</sup>. The final outcome of the anti-corruption strategy of the Republic of Armenia — "reduction of the overall level of corruption" is measured by correlation of the target indicators of the Corruption Perceptions Index of "Transparency International" and the Corruption Control Index of the World Bank Institute<sup>6</sup>. The final outcome of the plan is conditioned by a number of interim results (significant reduction in levels of operational, administrative and political corruption), the monitoring and assessment of which are mainly defined according to the combined indicators of the government effectiveness — regulatory quality, government effectiveness, rule of law, voice and accountability, political stability, civil freedoms<sup>7</sup>. Considering the circumstance, while assessing the changes of the level and proliferation of corruption in the Republic of Armenia as a result of implementation of the Republic of Armenia Anti-Corruption Strategy and its Implementation Action Plan for 2009-2012, the results of the evaluations and studies conducted by the above-mentioned organisations since 2009 will be used.

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<sup>4</sup> The Republic of Armenia Anti-Corruption Strategy and its Implementation Action Plan for 2009-2012, approved by the Decision of the Government of the Republic of Armenia No 1272-N of 8 October 2009, point 61.

<sup>5</sup> The Republic of Armenia Anti-Corruption Strategy and its Implementation Action Plan for 2009-2012, approved by the Decision of the Government of the Republic of Armenia No 1272-N of 8 October 2009, Chapter 6.

<sup>6</sup>The Republic of Armenia Anti-Corruption Strategy and its Implementation Action Plan for 2009-2012, approved by the Decision of the Government of the Republic of Armenia No 1272-N of 8 October 2009, point 65.

<sup>7</sup>The Republic of Armenia Anti-Corruption Strategy and its Implementation Action Plan for 2009-2012, approved by the Decision of the Government of the Republic of Armenia No 1272-N of 8 October 2009, points 67-74.

## **Corruption Perceptions Index<sup>8</sup>**

The Corruption Perceptions Index of "Transparency International" classifies the states as per the level of perception of corruption in the public sector. The scale of 0 to 10 is taken as basis for the results, where 0 score shows the highly corrupted countries, and 10 scores show the extremely "fair" countries.

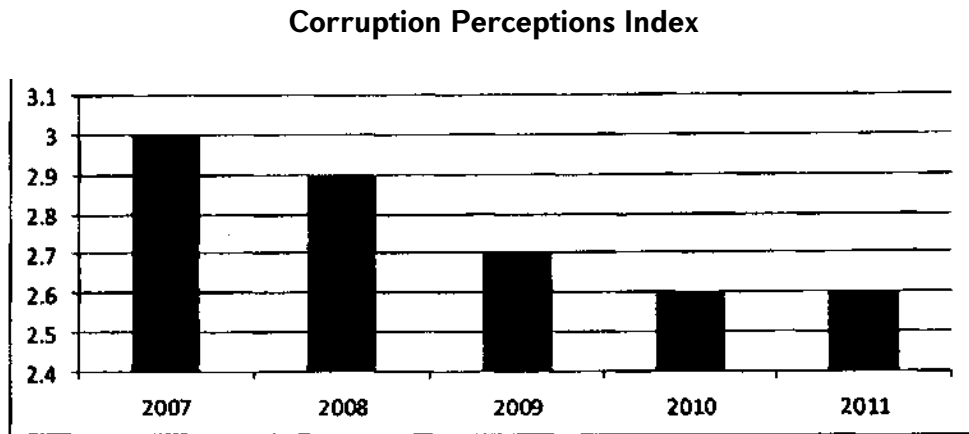
Diagram 1 below shows that the change in the Corruption Perceptions Index during 2007-2011 in Armenia is negative. Compared with 3 scores recorded in 2007, in 2011 Armenia scored 2.6.

In 2012, the Methodology of the Corruption Perceptions Index and the assessment scale changed. Currently, the Corruption Perceptions Index is assessed by a 100-score scale, and the indicator of the Republic of Armenia for 2012 has been 34 out of 100 scores possible. Under the ranking, Armenia holds the 105th position among 176 countries.

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<sup>8</sup>The additional information concerning the Corruption Perceptions Index of "Transparency International" is posted at the official website of "Transparency International"[www.transparency.org](http://www.transparency.org).

**Diagram 1.** *Corruption Perceptions Index 2007-2011*



### **Global Corruption Barometer<sup>9</sup>**

The Global Corruption Barometer of "Transparency International" measures the public opinion on manifestations and cases of corruption. It assesses whether or not the status of corruption in the country has changed, the anti-corruption efforts of the Government have been effective and which the mostly corrupted fields are, according to the public perception.

According to the results of 2011, 54 % of respondents assessed the anti-corruption efforts of the Government of the Republic of Armenia as ineffective, 20 % — neither effective nor ineffective, and only 27% considered them as effective. In the opinion of 50% of the research participants, during 2007-2010 the level and proliferation of corruption has increased in the country, 35% considers that it has remained unchanged, and only 15% has recorded reduction.

It is noteworthy that only 39% of the respondents mentioned that the citizens play roles in the fight against corruption, whereas the average indicator in other countries is 70%. Latvia — 28%, Rwanda — 29%, and Russian Federation — 33%, are close to the indicators of Armenia.

According to the research results of 2011, the mostly corrupted fields and bodies are the

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<sup>9</sup>The additional information concerning the Global Corruption Barometer of Transparency International is posted at the official website of "Transparency International" [www.transparency.org](http://www.transparency.org).



education system, the police, the judicial system and the public service.

According to the results of 2013, 19% of the respondents has mentioned that corruption in the Republic of Armenia reduced, whereas 43% of the respondents recorded increase. The anti-corruption efforts of the Government of the Republic of Armenia have been assessed as effective by 19 % of respondents, 53 % of respondents assessed them to be ineffective or very ineffective. The judicial system — 69%, public servants — 68%, the healthcare institutions and organisations — 68%, the police — 66% and the educational system — 58% are perceived as the most corrupted fields/institutions.

The picture on perception of the citizens' role in the fight against corruption is of grave concern. Only 37% of respondents think that involvement of citizens in the fight against corruption may lead to positive changes. Despite the fact that the indicator of Armenia has been very low also for 2011 — 39% (the average indicator is 70%), it has reduced by an extra 2 %. Lower indicators have been recorded only in Ukraine (29%), Serbia (34%) and Tunisia (35%). Only 43% of respondents wished to be engaged in the fight against corruption which is the lowest indicator among 107 countries, involved in the study.

Only 33% of respondents expressed willingness to voice out the cases of corruption. With this negative indicator, Armenia comes behind Ukraine (26%), Yemen (27%), Libya (29%) and Hungary (30%).

### **Indicators for fair governance<sup>10</sup>**

The World Bank Institute <sup>11</sup> applies six indicators for the worldwide governance: 1. voice and

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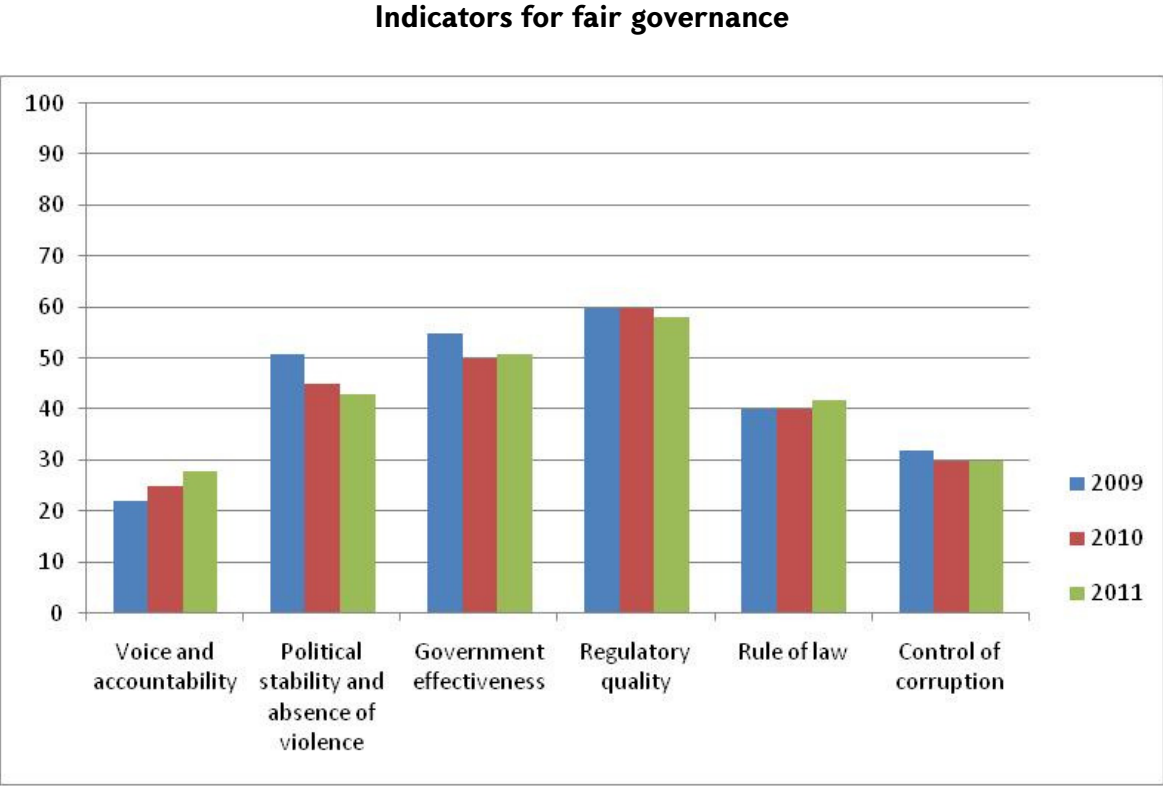
<sup>10</sup>The additional information concerning the worldwide governance indicators of the World Bank Institute is posted at the official website of the organisation at <http://info.worldbank.org/governance/wgi/index.asp>.

<sup>11</sup>"Business Environment and Enterprise Performance Survey" jointly conducted by the European Bank for Reconstruction and Development and the World Bank, comprises a number of interesting data on corruption in 2005 and 2008 in the Republic of Armenia, which can be found by visiting <http://siteresources.worldbank.org/INTECAREGTOPANTCORYResources/704589-1267561320871/Armenia2010.pdf>.

accountability, 2. political stability and absence of violence, 3. government effectiveness, 4. regulatory quality, 5. rule of law, and 6. control of corruption. The indicators are based on the 0-100 ranking, where 0 is the lowest rank and 100 is the highest one.

The diagram below shows that two of the indicators of fair governance in Armenia for the period of 2009-2012 — the voice and the rule of law, changed positively, reaching 27.7 and 29.9 scores correspondingly. In opposite to this, the other indicators including the one for control of corruption, has deteriorated.

**Diagram 2.** *Indicators for fair governance 2009-2011*



## **Global Integrity Report<sup>12</sup>**

The Global Integrity Report enables to assess the governance quality and applicability of the national anti-corruption mechanisms. The selected methodology correlates 300 units of quantitative and qualitative indicators. It studies issues such as the transparent system of the state procurement, press freedom, declaration of incomes, and exclusion of conflict of interests. The assessment underlines not only the legislative framework but also the law enforcement practice and the current situation.

The indicators are based on the 0-100 score ranking, where 0 is the lowest rank and 100 is the highest one. According to the 2011 data of the Global Integrity Report, the total scores of the Republic of Armenia are 63. The system is assessed as "weak". With its indicator, Armenia is close to Azerbaijan and comes behind Ukraine, China, Ghana, Mexico, Kenya, Serbia, Georgia, Kosovo etc. Though the legal regulation regime scored 83 out of 100 scores possible in this Report, the effectiveness of application of laws has scored only 46 under assessment. Effectiveness of the anti-corruption mechanism scored 34 under assessment, which is in compliance with the ranking of countries under the category of "very weak".

## **Global Integrity Index<sup>13</sup>**

The Global Integrity Index assesses existence of the anti-corruption mechanisms, the effectiveness and availability thereof in the context of the Government accountability, transparency and civil supervision, by including six main categories: 1. civil society, public information and media, 2. elections, 3. accountability, 4. governance and civil service, 5. supervision and regulation, 6. anti-corruption policy and rule of law. The scale of 0 to 100 is taken as basis for the results, where 0 score shows the countries in extremely deteriorated condition, and 100 scores show the perfect countries. The states are classified as per five groups:

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<sup>12</sup>The additional information concerning the Global Integrity Report is posted at <http://www.globalintegrity.org/report>.

<sup>13</sup>The additional information concerning the Global Integrity Report is posted at <http://report.globalintegrity.org/globalIndex.cfm>.

0-60 — very weak, 60-70 — weak, 70-80 — average, 80-90 — strong, 90-100 — very strong. Compared with the indicator of 57.53 recorded in 2007, in 2011 Armenia recorded the indicator of 62.69 scores, and it still goes among the countries under the category of "weak".

### **Corruption research of households<sup>14</sup>**

The corruption research was conducted by the "Caucasus Research Resource Centres-Armenia" in 2010 within the framework of the "Mobilizing Action Against Corruption" project of the United States Agency for International Development, which was aimed at the measure of public perception of corruption and assessment of anti-corruption efforts. This research also reveals interesting patterns, particularly, the 21% of the participants of the research admitted that they would be willing to take bribes, while the 58% expressed willingness to give bribes. In 2008-2010 the number of people who consider corruption as a fact of life has increased by 14%.

The participants of the research conducted in 2010 considered the Prosecutor's Office, the courts, the Central Electoral Commission, the law enforcement bodies as the most corrupt structures in Armenia. As regards the prevalence of phenomena of corruption, the following fields were pointed out: Healthcare, Electoral System, Education, Traffic Police, Tax Service, Police, Customs Service, Service Ensuring Compulsory Execution of Judicial Acts and Cadastre. 52% of respondents expressed the view that the Government does not have the political will and genuine desire to fight against corruption. Moreover, as of 2009, 44% of respondents expressed a similar view.

The pan-Armenian representational sociological research "The estimates, visibility, achievements and shortcomings of the authorities of the Republic of Armenia" of the "IPSC" (Institute for Political and Sociological Consulting) contains data on the level of corruption in Armenia in 2012.

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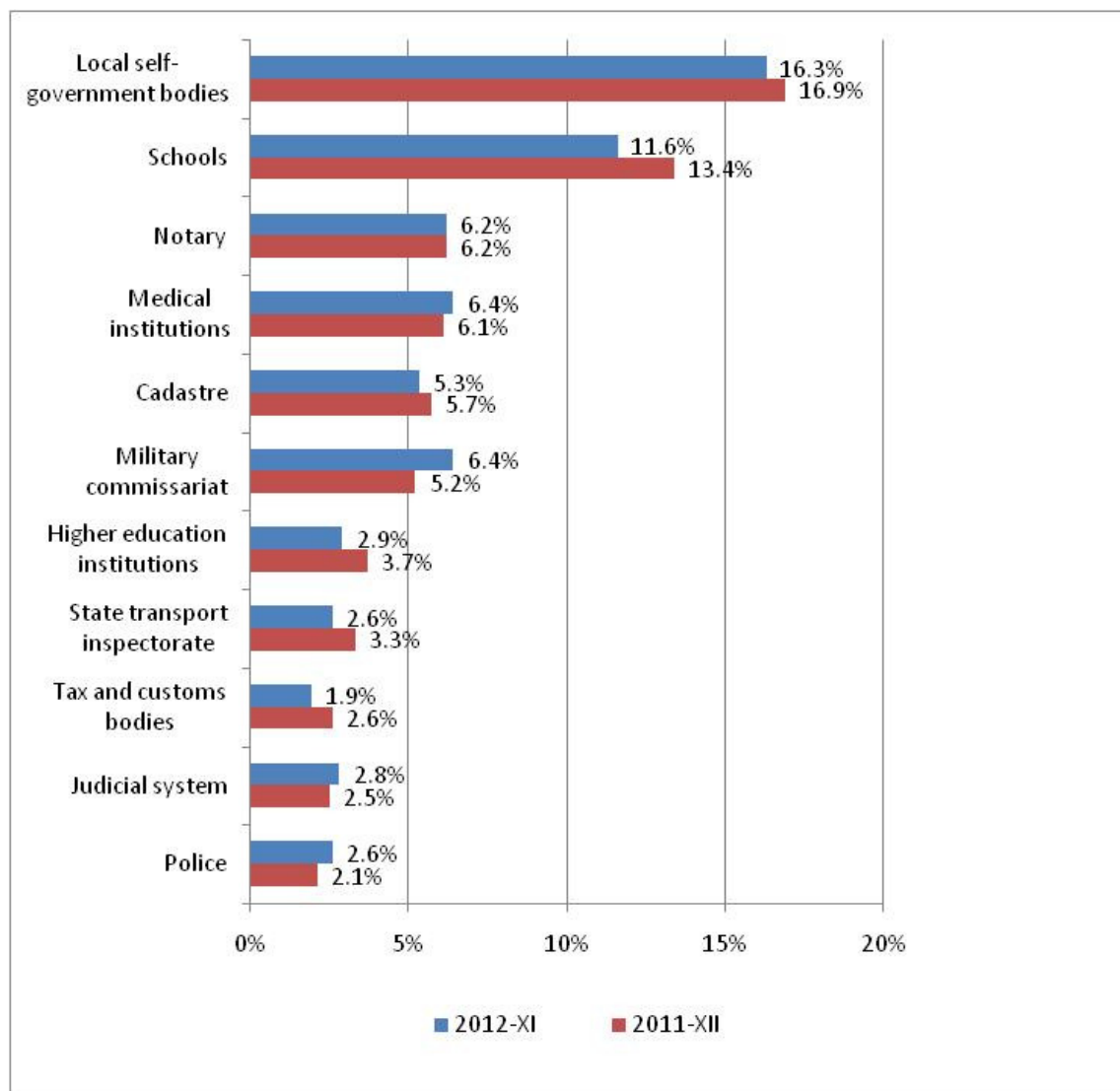
<sup>14</sup> The following link contains additional information on the corruption research of households <http://old.crrc.am/index.php/en/159/>

According to that research, as of November 2012, in comparison with the research conducted in December 2011, the number of persons who consider that corruption has increased, has reduced in the public perceptions on the observed fields.

So, "there is no corruption" answers are represented according to fields in the diagram below.

**Diagram 3.** *Perceptions of the level of corruption level in different fields:*

**"Has the level of corruption decreased, stayed the same or increased during the last year?" Here is represented the percent of the answers "There is no corruption in this field"**



The diagram shows that the lowest level of corruption in the perception of the society is in local self-government bodies and schools. The highest level of corruption is perceived to be in the

police, the judicial system, tax and customs bodies, state transport inspectorate and higher education institutions.

Moreover, in comparison with December 2011, in November 2012 a decrease of the level of corruption was recorded in schools, state transport inspectorate, Cadastre, higher education institutions, tax and customs bodies. An increase of the level of corruption was recorded in the military commissariat, the judicial system, the police, and medical institutions.

**So, the dynamics of the above-mentioned indicators shows that the objectives mentioned in the Republic of Armenia Anti-Corruption Strategy and its Implementation Action Plan for 2009-2012 have not been implemented, and Armenia continues to be classified in the group of countries with a high level of corruption.**

### **3. "Pillars" of the efficient anti-corruption policy**

The efficient anti-corruption policy should be based on the following main "pillars":

- efficient anti-corruption legal acts
- efficient anti-corruption body
- ensuring of effective investigation and punishability

#### *3.1 Efficient anti-corruption legal acts*

The existence of efficient anti-corruption legal acts is considered in two aspects: existence of a proper regulatory framework and an effective law enforcement practice.

The fight against corruption in the Republic of Armenia in 2009-2012 was carried out based on the Republic of Armenia Anti-Corruption Strategy and its Implementation Action Plan for 2009-2012 approved by the Decision of the Government of the Republic of Armenia, as well as the Government Annual Action Plan. Despite the fact that the Anti-Corruption Strategy Action Plan

adopted a policy of development and implementation of inter-agency (sector) anti-corruption programmes, the development of anti-corruption specific programmes is not ensured by state bodies. Sector programmes or other documents on fight against phenomena of corruption have been adopted only in separate cases (for example, "A complex action plan for 2011-2012 for fight against phenomena of corruption in the system of education", "2010-2012 schedule of implementation of activities aimed at reforming the healthcare system and decreasing corruption risks").

The anti-corruption legal acts, such as the Law of the Republic of Armenia "On procurements" adopted on 22 December 2010<sup>15</sup>, the Law of the Republic of Armenia "On public service" adopted on 26 May 2011<sup>16</sup>, The Electoral Code of the Republic of Armenia adopted on 26 May 2011 (as regards the corruption prevention mechanisms in financing election campaigns), adopted during the effective duration of the Plan has an essential significance for the fight against corruption. From among the legal acts adopted earlier it is worth mentioning Law of the Republic of Armenia "On anti-money laundering and combating financing of terrorism" adopted on 26 May 2008 and the Judicial Code of the Republic of Armenia adopted on 21 February 2007<sup>17</sup>. At the same time it needs to be considered that the adoption of a number of anti-corruption laws provided for by the Plan has not been ensured. For example, there have not been adopted laws of the Republic of Armenia "On programme budgeting"<sup>18</sup> and "On ensuring public health safety in the Republic of Armenia"<sup>19</sup>.

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<sup>15</sup>The Law of the Republic of Armenia "On procurements" has completely decentralized the system of procurements; procedures regulating the conduct and conflict of interests of the participants of the procurement process, as well as procurement specialists have been introduced.

<sup>16</sup>The Law of the Republic of Armenia "On public service" defines the codes of ethics for public servants and high ranking officials, provides for the declaration of property and income, establishes the Ethics Commission for High-Ranking Officials, the procedure for the formation of ethics commissions for public servants.

<sup>17</sup> The Judicial Code of the Republic of Armenia defines the codes of conduct for judges.

<sup>18</sup>It is mentioned in the outcome expected for 2009 of the strategy provision 5 of the Republic of Armenia Anti-Corruption Strategy and Its Implementation Action Plan for 2009-2012 that: "The draft law enshrining the requirements of programme budgeting was submitted to the Government of the Republic of Armenia".

<sup>19</sup>It is mentioned in the outcome expected for 2010 of the strategy provision 34 of the Republic of Armenia Anti-Corruption Strategy and Its Implementation Action Plan for 2009-2012 that: "The draft law of the Republic of Armenia "On ensuring public health safety in the Republic of Armenia" has been revised and



During 2005-2007 a number of anti-corruption international legal documents — particularly, Civil Law Convention on Corruption of the Council of Europe, Criminal Law Convention on Corruption of the Council of Europe and its additional protocol, as well as the United Nations Convention against Corruption — entered into force and became a constituent part of the legal system of the Republic of Armenia<sup>20</sup>.

### *3.1.1 The state of the Republic of Armenia Anti-Corruption Strategy and its Implementation Action Plan for 2009-2012*

Pursuant to point 13 of the Annex approved by point 2 of the Decree of the President of the Republic of Armenia NH-100-N of 1 June 2004 the function of implementing the anti-corruption strategy and the observations (monitoring) of inter-agency anti-corruption programmes is vested with the Anti-Corruption Strategy Implementation Monitoring Commission of the Republic of Armenia. Pursuant to point 5 of the Decision of the Government of the Republic of Armenia N 1272-N of 8 October 2009 an annual report on implementation process of actions, as well as of target indicators included in the Action Plan is submitted to the Monitoring Commission for Implementation of the Anti-Corruption Strategy of the Republic of Armenia within a period of one month after the end of each year.

To fulfil the requirements of the mentioned legal acts, the state bodies responsible for the implementation of the mentioned actions have submitted final reports for the whole period of the plan. The reports contain data on the outcomes of the Republic of Armenia Anti-Corruption Strategy and its Implementation Action Plan for 2009-2012 and the indicators thereof, as well as the reasons obstructing full or partial achievement of the outcomes.

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amended; The Law of the Republic of Armenia "On ensuring public health safety in the Republic of Armenia" has been adopted".

<sup>20</sup>International legal documents ratified by the Republic of Armenia and the state of honouring the international commitments assumed by the Republic of Armenia are represented in section 4.

21 state bodies have submitted reports, while two bodies — the staff of the Government of the Republic of Armenia and the National Security Service of the Republic of Armenia — have not submitted reports.

The Ministry of Nature Protection has not submitted a report in the required format reasoning that "... *the actions in the implementation of which the Ministry of Nature Protection of the Republic of Armenia is also involved are not measurable*". The reports of the Ministry of Foreign Affairs of the Republic of Armenia and the State Committee of the Real Estate Cadastre adjunct to the Government of the Republic of Armenia are also made in a format not complying with the required one and contain statements in text format; therefore they are not presented within the scope of this analysis.

Consequently, the data received from 18 state bodies have been subject to quantitative analysis.

During the reporting period for 2009-2012 the leading position, as regards to the number of outcomes subject to achievement, belongs to the Ministry of Justice of the Republic of Armenia (224 outcomes); the second is the State Revenue Committee adjunct to the Government of the Republic of Armenia (103 outcomes), while the Ministry of Health of the Republic of Armenia is the third (96 outcomes) in this list. The Ministry of Labour and Social Affairs of the Republic of Armenia is the last in this list; only 2 outcomes have been found under its responsibility.

Data are presented in the Table below according to each of the agencies. The three state bodies listed in the last part of the Table have not ensured the full achievement of any of the outcomes indicated.

**Table 1.** *Proportionality of the outcomes per agencies under the following classifications: "fully achieved", "partially achieved, "not achieved"*

<b>Name of the state body</b>	<b>Number of the outcomes subject to achievement by the body concerned</b>	<b>Proportionality of the outcomes fully achieved by the body concerned</b>	<b>Proportionality of the outcomes partially achieved by the body concerned</b>	<b>Proportionality of the outcomes not achieved by the body concerned</b>
Ministry of Territorial Administration of the Republic of Armenia	34	100%	0%	0%
Commission for Protection of Economic Competition of the Republic of Armenia	4	100%	0%	0%
State Revenue Committee under the Government of the Republic of Armenia	103	96%	2%	2%
Police of the Republic of Armenia	22	95%	5%	0%
Ministry of Justice of the Republic of Armenia	224	92%	5%	3%
Central Electoral Commission of the Republic of Armenia	17	82%	6%	12%
Ministry of Finance of the Republic of Armenia	69	76%	10%	14%
Ministry of Economy of the Republic of	38	75%	25%	0%

Armenia				
Control Chamber of the Republic of Armenia	4	75%	0%	25%
General Prosecutor's Office of the Republic of Armenia	35	69%	14%	17%
Judicial Department of the Republic of Armenia	9	67%	0%	33%
Civil Service Council of the Republic of Armenia	27	66%	30%	4%
Central Bank of the Republic of Armenia	8	63%	37%	0%
Ministry of Health of the Republic of Armenia	96	62%	24%	14%
Ministry of Education and Science of the Republic of Armenia	56	58%	21%	21%
Ministry of Urban Development of the Republic of Armenia	4	0%	50%	50%
National Statistical Service of the Republic of Armenia	3	0%	67%	33%
Ministry of Labour and Social Affairs of the Republic of Armenia	2	0%	0%	100%

The average indicator of the outcomes fully achieved by all agencies is 65.3%.

Moreover, the Ministry of Finance of the Republic of Armenia — 21%, the State Committee of the Real Estate Cadastre adjuncts to the Government of the Republic of Armenia — 8%, the Ministry of Health of the Republic of Armenia- 6%, the General Prosecutor's Office of the Republic of Armenia- 6%, the Ministry of Economy of the Republic of Armenia — 2%, the Police of the Republic of Armenia- 1%, the Ministry of Justice of the Republic of Armenia — 1%, have ensured the full achievement of the outcomes failing to comply with deadlines set.

The average indicator of the outcomes partially achieved by all agencies is 16.4%.

The average indicator of the outcomes not achieved by all agencies is 18.3%.

### *3.1.2 Main monitoring results of the actions of the Republic of Armenia Anti-Corruption Strategy and its Implementation Action Plan for 2009-2012*

The state bodies responsible for the implementation of the actions have represented information in their annual on the main monitoring results of the fully implemented actions. The following are the main monitoring results of the actions which, according to state bodies' assessment, are considered to be fully implemented:

First, **in the field of anti-money laundering and combating financing of terrorism**, the legislation of the Republic of Armenia has ensured the availability of the international registers of persons having political influence for the financial observations and financial institutions of the Republic of Armenia with the aim of ensuring compliance with international standards. The efficiency of detecting the cases of money laundering and financing of terrorism has increased. Seven criminal cases were instituted by the elements of crimes on money laundering and financing of terrorism during 2012. The preliminary investigation has been carried out by five criminal cases. The preliminary investigation of three cases has been completed. During 2012 the court delivered judgement of conviction for two cases.

Second, to minimise direct contacts between tax officers and taxpayers **in the tax sector**, methods and procedures for identifying the list of corruption crimes and revealing the

relationship between economic crimes and corruption offences have been introduced on the basis of the best international experience.

The framework of electronic tax services has expanded. The secondary legislation act has enshrined the requirement of submitting the tax reports only by mail or in electronic form. The automated system of delivering alert-notices to taxpayers have been introduced. 34% of reports are not submitted to tax authorities by hand.

The automated system of risk management and selection of taxpayers subject to inspection has been run.

The publicity, accountability and lawfulness of the activities of tax authorities have been improved. The training programme of tax officers for 2012 has been approved on uniform application of tax administration internal procedures. In 2012 a number of guidelines on submitting personalised reports of income tax and cumulative payment in electronic form, the activities of the electronic system of submitting the reports of the State Revenue Committee adjunct to the Government of the Republic of Armenia, the procedure for registering personal accounts in information systems was published and posted in the website. The State Revenue Committee adjunct to the Government of the Republic of Armenia has organised a number of awareness meetings devoted to tax legislation amendments having entered into force since the beginning of 2012.

The procedures for appealing the activities of the tax service and the actions of officials, tax payers service centres and contemporary Call Centre (which in 2012 rendered services to 68947 applications (from which 68251-telephone, 696-electronic)) have been introduced and fully operate. All the applications and complaints have been processed in the prescribed manner. The procedures for promotion of tax officers have been approved. The systems of evaluation of the annual performance and management skills, professional competence and qualification level of tax and customs officers have been introduced. In 2012 were recorded 81 cases of promotion, 171 tax officers were subjected to rotation.

The system of training of tax officers has been improved. Curricula of mandatory training of tax officers have been approved. In 2012, 3415 tax officers underwent training.

Internal control over the lawfulness of the activities of tax officers has been intensified. The control procedures for the lawfulness of the activities of the tax service have been reviewed. During 2012, 20 official investigations were conducted, as a result of which 6 tax officers were dismissed, while 41 officers were subjected to disciplinary liability. There were recorded 11 cases of violations of ethics codes.

Third, the efficiency and accountability of the customs service management have increased **in the customs sector**. An evaluation system of the performance of the customs service, procedures for promotion of customs officers (based on the evaluation system) and procedure for mandatory periodic rotation of customs officers have been introduced. The report on customs activities for 2011 is posted in the website of the State Revenue Committee adjunct to the Government of the Republic of Armenia.

For the introduction of customs control system based on risk management, new standards of risk are reviewed and introduced in the automated system of customs formalities for the purpose of exercising control over the goods transported across the customs border of the Republic of Armenia by selectivity. The system of self-declaration and customs mediation activities has been completely introduced in all customs houses. Selection of entities subject to customs inspection and post-clearance control is carried out by means of the risk management system. The number of persons submitting electronic customs declarations has increased.

The route system (red and green lines) of customs control over citizens leaving and arriving across the customs border of the Republic of Armenia by vehicles operates only in 5 customs posts (out of 6). The declarations selected by green line comprise 70.2% out of the total number of declarations. Subsystem of electronic recording of the moment of release has been introduced in the automated TWM system of customs formalities. The whole period of customs formalities for the import of goods not requiring non-tariff regulation is ranging between 2.5-6.5 hours. The number of documents required for the purpose of customs control has reduced to 3 (from 6).

The procedures for the assessment of customs value of goods for fair distribution of customs burden between economic entities and ensuring the transparency and lawfulness of the customs service have been brought into compliance with the requirements of the World Trade Organization and have been posted in the official website of the customs service. Transactions determined by method of transaction price comprise 71.5% out of the total number of transactions.

During the reporting period effective communication between the head of customs authority, citizens and economic entities has been ensured through the official website of the customs service and hot line. An Appeals Commission and a hot line service operate in the system of the State Revenue Committee adjunct to the Government of the Republic of Armenia and a feedback to the public is available in the official website of the customs service.

The number of sanctions imposed for customs offences during 2012 totalled 1561. The information, as well as the customs procedures and guidelines on use of new technologies are placed on the website of the State Revenue Committee adjunct to the Government of the Republic of Armenia.

Fourth, within the framework of strategic provision on continuous evaluation of corruption risks and their prevention in the **education field**, the forms of statement of information and of the reference letters "On professional skill level of teachers of general education institutions" and the procedure on "Training of teachers subject to sequential attestation in the education institution, implementing basic general education programmes," have been elaborated. The procedure "On mastering education programmes by learners of the education institution, on carrying out the final assessment or attestation of their competence in educational programmes, their promotion to the next grade, graduation and promotion to the next grade or next level of general education of those learners, who were absent for 120-200 hours during an academic year," and the procedures "On organisation of end-of-year and graduation examinations in the form of external studies", "On making recommendations for evaluation of performance of the learner of a general education institution" and "On admission to, transfer from and removal of a learner from the general education institution" have been amended. A unified system of



examinations for entrance to higher educational institutions has been introduced, which, in its turn, contributes to decrease of corruption risks at high schools, and the process of promotion from school to higher education institutions has been facilitated. As a result, equal conditions for all applicants and students have been created. In 2012 the applicants of non-state higher education institutions passed centralized entrance examinations together with the applicants of state higher education institutions.

Within the framework of strategic provision on raising the transparency, accountability and lawfulness of administration, in line with the "Unified Actions Plan of 2011-2012 for combating corruption-related phenomena in the system of education" higher education institutions have elaborated their anti-corruption annual strategic plans. Standards for licensing of higher education institutions have been stiffened, due to which 34 of more than 90 private higher education institutions operate presently. The scope of functions of the State Inspectorate of Education has been enlarged. A new division of "Inspection of vocational education" operates within the structure of the Inspectorate. Internal quality assurance centres have been introduced and operate at all higher education institutions. The higher education institutions of the Republic of Armenia submit analytical reports on internal quality assurance.

Reports on inspection, review and examination of higher education institutions in 2011 have been posted in the official website and the education portal ([www.edu.am](http://www.edu.am), [www.amedu.am](http://www.amedu.am)) of the Ministry of Science and Education of the Republic of Armenia, as well as in "Krtutyun" weekly. In accordance to the procedures on admission, transfer, promotion and graduation of learners, a subject control of learners' flow has been carried out at institutions of secondary vocational education (at almost 90% of institutions of secondary vocational education), which implement general education basic programmes in marzes of the Republic of Armenia and Yerevan city.

The capacity assessment package for structural and detached subdivisions of the staff of the Ministry of Education and Science of the Republic of Armenia, as well as its training needs, one of the components of which is conducting trainings on such topics, as raising public awareness on corruption and implementing anti-corruption measures, has been elaborated. In the course of 2012 a total of 30 specialists from the Staff of the Ministry of Education and Science of the

Republic of Armenia have participated in similar seminar-workshops and trainings.

Within the framework of the strategic position on raising the transparency, publicity, accountability and lawfulness of administration of general education schools in the field, provisions ensuring participation of parental and pedagogical councils, as well as methodological units in school administration and control functions have been enshrined in the New model Statute of general education schools. The new model Statute of general education schools also enshrines the powers of pupil councils. The model Statute of students' council, defining its scope of competencies and liabilities, has been approved. Control over maintenance of operational procedures established at schools has been stiffened. According to the reviews of the flow of learners at high schools made by the State Inspectorate of Education of the Ministry of Education and Science of the Republic of Armenia the admission of learners in 2012 on Republican scale, has increased by 0.8% compared to that of 2011, while promotion has decreased by 7%.

A unified and independent system of knowledge assessment has been established within the framework of strategic provision on assurance of transparency and independence of systems of assessment of knowledge, capacities and skills. In the beginning of 2012 information databases covering such subjects as "Armenian language and literature" and mathematics were published, to ensure the transparency of the unified and graduation examinations, also making use of the sample tests (levels A and B) presented by the teachers of general education schools of various marzes of the Republic. In 2013 the applicant was clued up in advance on the tasks included in the test during the examination of the above mentioned subjects.

The coverage on the process of executing measures provided by anti-corruption programme, implemented in the field of education has been provided, within the framework of the strategic provision on conduction of specific programmes on educational-enlightening policy of combat against corruption to raise the transparency, accountability and public awareness in the field of education. An information web page on anti-corruption programmes is available at the official website of the Ministry of Education and Science of the Republic of Armenia, where the "Unified Action Plan 2011-2012 for combating corruption-related phenomena in the system of education", as well as reports related to it are placed. The aforementioned information and data, concerning

the actions taken, have been published through different mass media.

During 2012 alone, 600 mass media and information materials were published at the official website of the Ministry of Education and Science of the Republic of Armenia, aimed at ensuring the transparent and accountable work of the Ministry, including by means of quick response to the issues of concern to the society. 18 broadcastings were made, 55 information materials on press-conferences and 75 information materials on anti-corruption programmes were published.

Fifth, within the framework of strategic provision on raising the transparency and accountability of administration of public finances in the **healthcare field**, the package of hospital care services has been reviewed and amended, which is reflected in the Law of the Republic of Armenia "On state budget" and agreements "On state-guaranteed free of charge medical aid and service" signed with medical facilities. For introduction of the principle of shared medical costs the budget programmes on "Provision of obstetric-gynecological medical aid" have been approved. Provision of state-guaranteed free of charge medical aid and service by granting certificates is available only in the programmes of obstetric aid and medical aid service for children (under the age of seven).

Within the framework of strategic provision on improvement of pricing system in the healthcare field and abolition of favourable conditions for informal payments, the principle of shared medical costs has been introduced also in the programmes on "Medical aid services for cancer and hematologic diseases" and "Medical aid services for sexually transmitted diseases". The pricing schedule of estimated minimum and maximum costs for paid medical services provided by healthcare organisations, carrying out state-guaranteed free of charge medical aid and service, as per marzes and Yerevan city, and estimated standards for expenditure items of prime costs of medical services have been approved. Only healthcare organisations providing government-sponsored medical aid operate according to these standards.

Within the framework of strategic provision on reduction of the amount of shadow circulation of money, raising the transparency, targeting and accountability of government sponsorship in healthcare services and raising the transparency and accountability of the activities of medical facilities, the contractual state-provided funds have been accounted taking into consideration the

actual indicators of the previous year, where the volume exceeding the contractual amount and having not received state-funding is not considered a basis for calculation of contractual amounts. The mismatch between bases for state-funding of medical facilities in the budget execution report for 2012 does not exceed 1%. According to actual indicators it amounts to 1%.

The list of situations and diseases requiring immediate medical intervention has been reviewed and defined by the Order of the Minister of Healthcare of the Republic of Armenia N 144-A of 31 January 2012 "On approving the criterion for diseases and situations requiring immediate state-guaranteed free of charge in-patient medical aid".

Within the framework of the strategic provision on ensuring proper financing of the urgent medical aid program, budget amounts provided for urgent medical aid program in the healthcare programs of state budget 2012 of the Republic of Armenia total to around 3 billion Armenian drams, which constitutes 4.8% (62.5 billion Armenian drams) of the total expenditure on healthcare projects of the state budget of the Republic of Armenia. The indicator of unjustified calls for emergency first aid has totalled to 1.36%.

Within the framework of strategic provision for ensuring transparency, accountability and lawfulness of the activities of outpatient-polyclinic medical facilities, clinical guidelines and criteria based on empirical medicine were introduced in 2012.

Within the framework of strategic provision on raising the transparency, accountability of the activities of Hygiene and Anti-Epidemic Service the registration forms (overall 39) used in bacteriological, sanitary and chemical, parasitology research laboratories of the "Expertise Centre" SNCOs of State Hygiene and Anti-Epidemiological Inspectorate of the Ministry of Health of the Republic of Armenia and the registration forms used during measurement of the levels of their physical factors, as well as administrative statistical reporting forms of the immune prevention field have been approved and introduced.

Sixth, within the **judicial system**, the best International practice has been reviewed in order to increase the salary rate for judges of the courts of general jurisdiction.

The Law of the Republic of Armenia "On public service", regulating the Institute of conflict of

interests of judges was adopted in 2012, to promote the transparency and ensure controllability of declaration of conflict of interests of judges, and their income and assets.

In line with the International experience in promoting practices of preliminary education of judge candidates and the process of training of judges, at least 7 months, but not more than 10 months term for education of judge candidates has been set forth by Armenian Law "On the Academy of Justice of the Republic of Armenia". The Law was adopted on 3 June 2013.

Seventh, **in the field of state registration of legal entities**, the Law of the Republic of Armenia "On making an amendment to the Law of the Republic of Armenia "On state registration of legal entities" was adopted on 19 March 2012 to facilitate the process of state registration of legal entities. The Law has been replaced with new edition bearing the following title: "On state registration of legal entities, state registry of detached subdivisions of legal entities, institutions and individual entrepreneurs". The idea of creating an electronic register has been implemented in the draft. After adoption of the Law the documents required from other state bodies for state registration are received only through the State Register Agency of Legal Entities. The terms for provision of statement of information, confirming the absence of liabilities of legal entities and registering their liquidation have been reduced. Within one working day after receipt of an application on registering the liquidation, the Agency communicates an enquiry to the tax authority to receive confirmation that the legal entity has no liabilities with regard to state budget and social security. The enquiry is sent through a system ensuring electronic circulation of documents enabling the confirmation of its receipt. Tax authorities reply to the enquiry within 20 days following its receipt.

The methods of control over the activities of State Registry Agency bodies have been reviewed by the Decision of the Government of the Republic of Armenia "On making amendments and supplements to the Decision of the Government of the Republic of Armenia "On approving the Charter and the structure of the Agency for State Registry of Legal Entities of the Ministry of Justice of the Republic of Armenia".

Eighth, **in the field of compulsory enforcement of judicial acts**, an electronic enquiry system on detection of the debtor's property has been introduced for building the capacity of

compulsory enforcement officers to detect the debtor's property.

About 22 commercial banks, the Agency of State Registry of Legal Persons of the Staff of the Ministry of Justice of the Republic of Armenia, the Passport and Visa Department of the Police adjunct to the Government of the Republic of Armenia, the State Social Security Service of the Ministry of Labour and Social Affairs of the Republic of Armenia are connected to the system as of 2012. As a result, the average term for detection of the debtor's property has been reduced from 15 to 2 days, as compared with that of the previous year. The ratio of the cases of non-detection by the compulsory enforcement officers of the debtor's property to the cases of detection of the property in frames of judicial acts enforcement proceedings has totalled to 13.1%.

The mechanisms of control over compulsory enforcement of judicial acts carried out within the Ministry of Justice of the Republic of Armenia have been improved. The methods and procedures of control over the activities of the Judicial Acts Compulsory Enforcement Service have been reviewed. The procedure summarizing the annual results of the activities of the Judicial Acts Compulsory Service, as well as the unified procedure on preparing materials on disciplinary proceeding against the officials of the Judicial Acts Compulsory Service and instituting disciplinary proceedings against them, have been established. As a result, in 2012 a disciplinary penalty was imposed against 11 of 393 officials of the Judicial Acts Compulsory Service, 5 were dismissed from service, 45 were granted incentives.

Ninth, **in the field of Police**, procedures on raising an extra-budgetary fund for material rewards and technical development and ensuring the transparency of spending the funds within the framework of the strategic provision on increasing the transparency and publicity of the activities of Road Police have been established.

Computer program on traffic accidents and maintenance of statistics on them has been introduced in the Road Police. Data on traffic accidents are provided to insurance companies electronically and are covered through mass media. The system of state register of population has been enhanced. The use of the data of the state register of population during rendering of public services has been dovetailed. The system of public service numbers has been introduced

in the database of state register of population, and the number of the public services to the citizen is generated automatically, on the basis of individual data stipulated by the Law. The availability of the procedures on appealing against actions of police officers has been increased. In 2012 a standing working group, conducting official investigation against police officers was established by Decision N 1672-N of the Government of the Republic of Armenia "On Approving the composition and procedural rules of the Police Disciplinary Commission". Total number of appeals against actions of police officers in 2012 has amounted to 1576, while the number of official investigations has reached 1802. In the "Support to citizens" section of the new [www.police.am](http://www.police.am) internet website of the Police of the Republic of Armenia (5,517 visits) the citizens enjoy the opportunity to send requests to the Head and Deputy heads of the Police of the Republic of Armenia.

For the purpose of reducing the difficulties of communication between the interim units of the Police and between the officers and citizens, the procedures on holding examinations for receipt of a driving license, state registration of the property right on vehicles, carrying out their inventory, providing registration numbers and certificates, as well as granting and exchanging driving licenses have been facilitated. Those services are being organised at specialised and technically equipped establishments. A customer service point of Yerevan registration and examination unit of "Road Police" service of Police of the Republic of Armenia has been opened in the territory of the specialized customs house for customs formalities under the State Revenue Committee adjunct to the Government of the Republic of Armenia by joint initiative of the Police adjunct to the Government of the Republic of Armenia and State Revenue Committee adjunct to the Government of the Republic of Armenia.

Electronic payment terminals for state duties, administrative fines and other payments, stipulated for rendering passport services have been installed at passport divisions of Ashtarak, Masis, Artashat, Armavir, Avan and Davitashen passport groups and passport divisions of Tumanyan, Bazum, Akhuryan, Tashir, Noyemberyan, Kapan, Sisian, Goris, Vayk, Eghegnadzor, Vardenis, which has significantly boosted the service speed.

A wireless Internet (WIFI) system has been launched at the building of the Passport and Visa

Department of the Police of the Republic of Armenia, which has given the citizens, visiting the Department an opportunity to use the Internet free of charge. A Republic of Armenia citizenship and special residence register, an electronic system of individual data has been introduced.

A simplified procedure for removal from registration of a person not entitled to use of residential area based on the application of the owner in a short amount of time has been introduced. The process of registering persons in the state register of the population and removing them from the register has been simplified by Decision No 1435-N of the Government of the Republic of Armenia, according to which the passport service shall clarify electronically the list of persons entitled to property over a residential area with the Real Estate Cadastre adjunct to the Government of the Republic of Armenia.

Systems for electronic submission of identification documents have been installed within all passport services, except for the services in Davitashen and Kanaker-Zeytun. This has provided the opportunity to serve the residents of the Marzes (provinces) as well; this is also conditioned by pension reforms.

A Hotline service for quick response has been established. In 2012, nearly 46,092 people visited the website of the Police of the Republic of Armenia ([police.am](http://police.am)), and 303,739 people visited [passportvisa.am](http://passportvisa.am) in 2012.

Tenth, within **public service sector**, starting from 1 January 2012, the Law of the Republic of Armenia "On public service" entered into force. The Law regulates the rights and obligations of public servants, as well as the common principles of collection, promotion and resignation, line of conduct and clash of interests. The ethics, mechanisms for declaration of interests of high-ranking officials of the Republic of Armenia and the procedures for conducting proceedings for cases of clash of interests have been regulated in a separate section. The Commission of High-Ranking Officials has been established, and the regular activities of the Commission have been ensured. The Registry of High-Ranking Officials, as well as the system for the declaration of properties and incomes of high-ranking officials and of persons affiliated to them, have been established. Over 680 high-ranking officials and persons affiliated to them have submitted declarations of their properties and incomes to the Commission. The declarations of high-ranking



officials have been posted on the website of the Commission ([www.ethics.am](http://www.ethics.am)) for the first time and are accessible to the public at large. The Commission has responded to all applications or letters addressed to the Commission, as well as recommendations or press releases.

However, the fact that the corresponding bodies have conducted monitoring through self-assessment of their activities should be taken into account. On the other hand, the monitoring that has been completed is administrative and does not include the system of content-based monitoring of performance. The analysis of the submitted reports shows that there is no information regarding the tools and indicators that have served as a basis for drawing conclusions on the achievement of results. Moreover, the submitted reports do not provide evaluations on the result or impact of the Action. This does not provide the impartial observer with the opportunity to re-evaluate the objectivity and reliability of the monitoring.

Thus, the following is indicated as the result of the Action implemented completely in the tax sector: "To minimise direct contacts between tax officers and taxpayers, methods and procedures for identifying the list of corruption crimes and revealing the relationship between economic crimes and corruption offences have been introduced on the basis of the best international experience", but the essence of those methods and procedures is not touched upon in the report. Without any evaluation, it is stated that "compared to 2011, in 2012, the number of appeals submitted by taxpayers to the appeals commission has reduced (from 269 to 205), while the total number of decisions benefiting taxpayers has remained at the same level (36%)", but the reduction of the number of appeals may also go to show the increase in the lack of confidence in the appeals commission. This version can be checked, particularly by analysing the cases of appeal against the denial of appeals through a judicial procedure and the number of claims that have been upheld.

The fact that "a thematic inspection on the mobility of learners in accordance with the procedures for admission, transfer and graduation at intermediate vocational education institutions (nearly 90%) carrying out the primary educational programmes in the Marzes of the Republic of Armenia and in Yerevan" or the fact that "the Ministry of Education and Science of the Republic of Armenia is the first of the state structures that has opened and operates the

"Reception of the Ministry of Education and Science of the Republic of Armenia" Facebook page where all the alerts received have been processed accordingly" have been recorded as a result in the education sector. The above mentioned clarifies neither the purpose of the inspections, nor the effects thereof, nor the number of alerts posted on the Facebook page, nor the nature thereof, and the phenomenon "processed accordingly" is immeasurable or inappreciable.

One of the results achieved in the judicial system has been formulated in the following way: "the best international experience has been studied in order to increase the salary rate for judges of the courts of general jurisdiction", and in the registration of legal persons it is mentioned that "the methods of control over the activities of State Registry Agency bodies have been reviewed by the Decision of the Government of the Republic of Armenia". Such self-contained formulations essentially limit the opportunities for an objective evaluation of this or that result, as well as the effectiveness of planning new actions in relation to such a result.

Nevertheless, even with the above mentioned considerations, the following are the main results of the monitoring of the Actions implemented completely, according to the evaluation of the state bodies:

### 3.1.3 Discrepancies between the current annual and final, four-year reports 2009-2012

In the final reports submitted by the state bodies there are essential discrepancies between the data in the final reports and the data in the annual reports submitted prior to that moment. There are discrepancies and inaccuracies in almost all the reports.

Thus, according to the final report submitted by the Police of the Republic of Armenia, there were 22 results to be achieved in the reporting period, of which

- 21 have been fully achieved;
- 1 has been partially achieved;
- All results have been achieved.

Meanwhile, by summing up the data in the annual reports submitted for the years 2010, 2011 and 2012, we see that there are 10 results that have been fully achieved.

In the same manner, there are 24 results that have been partially achieved for three years. Even if we accept the possibility that the results partially achieved every year have been fully achieved in the following years, the number of fully achieved results should have been quite higher every year, but that is not seen.

Another vivid example of discrepancy of data is the discrepancy in the reports submitted by the State Revenue Committee adjunct to the Government of the Republic of Armenia.

According to the final report submitted by this body, there were 103 results to be achieved in the reporting period, of which

- 99 have been fully achieved;
- 2 have been partially achieved;
- 2 results have not been achieved.

According to that, the indicator for achievement (full) of results of the State Revenue Committee is rather high (96%).

Meanwhile, the image in the reports of the past 3 years is different.

By summing up the data in the annual reports submitted for the years 2010, 2011 and 2012, we see that there are 59 results that have been fully achieved (40 less than the 99 results in the final report).

In the same manner, 13 results have been partially achieved for three years; meanwhile the indicator in the final report is 2. Even if we accept the fact that the 7 results partially achieved in 2010 and the 2 results partially achieved in 2011 were fully achieved in the following years, there were still 4 partially achieved results in 2012 that at least needed to be shown in the final report. Interestingly, the results in all the annual reports of the State Revenue Committee have been achieved, while there are 2 results in the final report.

The study on the annual reports also shows that the performance evaluation has not been properly implemented, and the submitted reports are incomplete and inaccurate. No measurable description of the situation has been provided. The methodology of the state bodies for evaluation of the results is not clear, and the standards and instruments for evaluation remain unidentified. For instance, the following interpretation has been made in relation to the measures provided for by the 56th, 57th and 58th provisions in the Strategy on Political Corruption and the expected results: "Has been partially achieved". The following interpretation has been presented as justification for partial achievement of the result. "In accordance with the political decision the draft laws related to the National Assembly of the Republic of Armenia shall be developed by the staff of the National Assembly of the Republic of Armenia or the deputies of the National Assembly." The evaluation "partially achieved" has been given for the expected result of Action 16.6 (confidence of the participants of the foreign economic activity in the appeals procedures has grown compared to the previous year). The potential increase in confidence is not shown in the interpretation for the achievement of the result, but the main Action is touched upon. The description "partially achieved" in relation to the first result of Action 19.3 (regular inventory procedures at schools and practice of electronic accounting have been introduced) is present. However, from the interpretation it is clear that "...electronic accounting in the Republic is conducted by nearly 2% of the total number of schools". Since the result assumes "the practice introduced in electronic accounting", we believe only 2% is very little to consider the result partially achieved.

On the other hand, the data regarding the achievement of the result and the monitoring indicator have often been missing in the submitted reports. For instance, the monitoring indicator for Action 37.1 in the 37th provision of the Strategy related to the judicial system "an average salary for employees within the judicial system, a percentage of the average salary of employees within private legal enterprises" is envisaged. However, the Ministry of Justice has not submitted the data regarding the indicator, reasoning that "the data regarding the average salary of employees within private legal enterprises are not collected by state bodies".

Thus, there are essential discrepancies between the data in different reports; proper evaluations

have not been given in relation to the implementation of Actions, which calls into question the completeness and reliability of the reports that have been submitted.

3.1.4 Reasons for full non-achievement or partial non-achievement of results of the 2009-2012 Action Plan for Implementation of the Anti-Corruption Strategy of the Republic of Armenia on the part of state bodies

The average indicator of the results partially achieved by state bodies is 16.4%, and the average indicator of the unachieved results is 18.3%. The defined format for submission of reports requires the reporting state bodies to identify and indicate the reasons for not achieving or partially achieving the results indicated in the Action Plan for the Anti-Corruption Strategy.

Though in individual cases the bodies in charge did not reveal and comment on the reason of failing to achieve an outcome or achieving it partly (a typical example is that with regard to the partially achieved outcome N 108.2, the report of the Ministry of Education and Science of the Republic of Armenia only mentions the circumstance that “anti-corruption thematic materials to be included in masters educational programmes have not been developed yet”), nonetheless, as a rule, the public bodies have stated the reasons for failing to achieve or achieving partly the indicated results of the Action Plan of the Anti-Corruption Strategy. The reasons are as follows:

**1. Incomplete planning of the Republic of Armenia Anti-Corruption Strategy and Its Implementation Action Plan for 2009-2012 with regard to actions.** In particular, outcome N 18.4 to be achieved by the Ministry of Education and Science of the Republic of Armenia is defined as follows: “the procedure for conflict of interests and application of declarations in the field of education has been established”. The Ministry considers that “the procedure for conflict of interests and application of declarations in the field of public service does not apply to persons involved in the field of education”; therefore, making such a statement in the Action Plan was inappropriate.

**2. Incomplete planning of the Action Plan with regard to incorrect indication of the body in charge of achieving an outcome.** For instance, the National Statistical Service should have

developed a methodology of statistical analysis in regard to corruption cases. However, the clarification provided by the Service mentions that the concept of “corruption crime” is not a subject of statistical methodology and is considered a subject of jurisprudence; the data thereon is summarised by the prosecutor's office. The report by the Central Electoral Commission also mentions that the outcome (“Those engaged in election bribes have been revealed and brought to liability”), to be achieved under the responsibility of that body, is beyond the competencies of the Commission.

**3. Dependence of the achievement of the outcome established by the Action Plan on various legislative amendments or imperfection/absence of the legislative framework.** The report of the Civil Service Council of the Republic of Armenia also mentions that “the development of clear criteria for selection and appointment of one of the candidates for the office, having crossed the threshold set at the competition” was established by one of the outcomes. Whereas, “the legislation envisages ... criteria for selection of three successful participants”.

**4. Setting of unreasonable deadlines for the achievement of outcome established by the Action Plan.** For example, the “obsolete deadlines for the achievement” are mentioned by the State Revenue Committee under the Government of the Republic of Armenia as a reason for failure to achieve an outcome.

**5. Insufficiency of financial means needed for the achievement of the outcome envisaged by the Action Plan.** The absence of “sufficient financial resources” was mentioned as a reason for the partial achievement of outcome N 18.3 envisaged to be achieved by the Ministry of Education and Science of the Republic of Armenia. In another case the failure by the Ministry of Labour and Social Affairs of the Republic of Armenia to achieve the outcome was justified by “financial difficulties created in the economy of the Republic of Armenia in consequence of the financial-economic crisis”.

**6. Absence of relevant mechanisms of assessment of certain outcomes established by the Action Plan.** Outcome N 19.3 envisaged to be achieved by the Ministry of Education and Science of the Republic of Armenia reads as follows: “The number of inexcusable absences decreased by

10 percentage points.” Whereas the Ministry has made clear that “there is no mechanism in the field of education for the calculation of the value of that indicator”.

**7. Introduction of substantial changes for the achievement of an outcome connected with drafting of other state strategies/programmes.** The Ministry of Justice of the Republic of Armenia made a comment, according to which “the adoption of the Strategic Programme for Judicial and Legal Reforms in the Republic of Armenia for 2012-2016 had dragged out the necessary legislative amendments, since new legislative amendments are to be made by the adoption of the Strategic Programme.” The failure to implement the actions envisaged to be achieved by the Ministry of Education and Science was justified “...by the process of reforms that were in progress in the field of higher education in the Republic of Armenia”.

Though the responsible state bodies provided justifications on the failure to achieve or partial achievement of the outcomes, the majority of them were attempts of “justifying” the failure to achieve the outcome, explanations which did not reflect objective reasons obstructing the achievement of the outcomes.

In individual cases the imperfection of the legislative framework was invoked, whereas no any attempt of legislative initiatives was made to eliminate such imperfection. As to the reasons, obstructing the achievement of the outcomes not achieved, which were provided in the report of the Judicial Department, the following was stated repeatedly: “a draft on making relevant legislative amendments has not been put into circulation.” Though this statement makes clear that the outcome was not achieved because a relevant draft had not been put into circulation; however the real reason of not putting the draft into circulation is unclear. It is not clear whether this is the fault of the body in charge — the Judicial Department — or is connected with shortcomings in the working process of other bodies.

The reasons of not implementing a series of actions were unduly ascribed to other agencies or bodies, whereas all the state bodies gave their consent and submitted proposals with regard to the actions in the process of discussion and approval of the draft decision by the Government. The final decisions were made during the Government session as a result of co-ordination of the actions with the bodies in charge. Hence, it is noteworthy that such issues become a matter of

discussion only at the end of the Plan, and are ignored at the initial stage of launch of the Plan. Furthermore, no any step was taken during the implementation of the Plan for the settlement of the assigned tasks, while practical legal mechanisms were available aimed at eliminating the “obstacles” in virtue of making amendments to the Decision of the Government of the Republic of Armenia No 1272-N of 8 October 2009 on approving the Republic of Armenia Anti-Corruption Strategy and Its Implementation Action Plan for 2009-2012.

### 3.1.5 Shortcomings in the Implementation Action Plan for 2009-2012 of the Republic of Armenia Anti-Corruption Strategy

The study of documents of the Implementation Action Plan for 2009-2012 of the Republic of Armenia Anti-Corruption Strategy enables to make certain conclusions on the shortcomings available therein. In particular:

- 1. While elaborating the Plan main issues of corruption, its causes, as well as corrupt practices were identified in an incomplete manner<sup>21</sup>.** For example, provision 17 of the Strategy envisages “ensuring continuous assessment of corruption risks and prevention thereof within the framework of the policy on development of education sector”. The outcomes expected to be achieved under this provision envisage assessment of corruption risks available in various levels of education and provisions on elimination thereof. Thus, the Action Plan envisages revealing of risks and seeking of ways of overcoming them, whereas the risks should have been assessed prior to the development of the Action Plan. It turns out that the provisions on reduction of corruption risks should be developed in parallel with and during the implementation of the Plan, which is a controversial approach. Moreover, the assessment of risks in the field of public education and drafting of provisions on reduction thereof is set as an outcome for 2012, which is the final year of

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<sup>21</sup> The second monitoring report on Armenia adopted on 30 September 2011 at the 10th Istanbul Anti-Corruption Action Plan Monitoring Meeting of Anti-Corruption Network for Eastern Europe and Central Asia of the Organisation for Economic Co-operation and Development also proposes that the authorities of the Republic of Armenia conduct a detailed study of causes of corruption and sector-specific corrupt practices.



the Action Plan. The actions envisaged for the education sector may be viewed as being directed to overcoming of partly revealed issues; however, in the case of absence of a comprehensive and objective research on causes and practices of corruption in the relevant field, the purposiveness of the envisaged actions remains controversial. Besides, the changing or replenishment of actions, indicated in the Plan, on the basis of a study of new risks and causes of corruption was not ensured in the course of implementation of the Action Plan.

- 2. Mainly legislative amendments and/or trainings were envisaged in a series of fields for the reduction of corruption risks through the Anti-Corruption Plan, which cannot have a significant impact on the level of corruption risks.** For instance, one of the strategic measures of combating corruption in the judiciary is “simplifying the formal judicial procedures and reducing the workload of the courts” envisaged in sub-chapter 4.7 (the Judiciary) of the Anti-Corruption Action Plan. However, both in the Strategy, and in the Action Plan the applying of alternative dispute resolution methods was set out as the only way of implementing this measure. In its turn, only “clarify the legislative framework for introducing arbitration for the family and the labour related disputes” action was planned for the implementation of this provision. Thus, the “simplification of the formal judicial procedures and unburdening of the courts” through three-tier planning has been limited only to “clarifying of the legislative framework”. Whereas it is evident that the unburdening of courts may be achieved also in the case of implementing other measures in line with clarifying the legislation, for instance through the introduction of a more efficient system of distribution of judicial cases.
- 3. Direct connection between the outcomes, indicators and actions was not ensured when setting of the issues by the Action Plan.** For example, action 12.2 envisages “improving of the training system for tax officers”, while the expected outcome is formulated as follows: “300 tax officers have been trained”. The expected outcome is not equivalent to the action, since the improvement of the training system implies change and enhancement of the principles, procedures of the system, methods and approaches of

teaching and of other elements of the system. As an expected outcome for the implementation of the action may have served, for instance, the introduction of new methods of teaching or the clarification of the procedure (principles) of selection of participants, or a more enhanced method of assessment of the knowledge acquired through trainings. Whereas the expected outcome of this action just implies the number of trained officers, which does not enable to make a conclusion on the improvement of the system. Furthermore, it is possible to train 300 tax officers even through the current, not improved system.

4. In the case of absence of full provision of needed financial and other means, the **included sectors are too broad and not properly targeted.**
5. In individual cases there is an issue of a “wrong” choice of the bodies in charge, a gap of not fulfilling the responsibility of bodies performing independent management. For instance, as to the actions envisaged by points 56, 57, 58 of the “Political Corruption” section of the Anti-Corruption Strategy, the Ministry of Justice has mentioned that “the draft laws with regard to the National Assembly are to be drafted by the National Assembly”.
6. **Actions envisaged by the Anti-Corruption Action Plan are planned incompletely; they are not comprehensive and complete to the extent necessary.** Based on the four sectors mentioned in the Anti-Corruption Strategy, we will assess the extent whereto the actions, expected outcomes and monitoring indicators are successfully planned in the Action Plan for the Implementation of the 2009-2012 Anti-Corruption Strategy of the Republic of Armenia.

The assessment of the Action plan will be carried out through the following questions:

- Is the **list of actions** stemming from the current provision of the Strategy complete and sufficient for the implementation of this provision?
- Are the **expected outcomes** for the current action complete and sufficient for considering the implementation of that action successful?

- Do the **monitoring indicators** fully reflect the successful implementation of the current action (outcomes)?
- What kind of gaps are available in the definitions of actions and outcomes.

**(a) “Penitentiary Service”**

The “Penitentiary Service” sector includes three provisions of the Strategy.

The three provisions include the following ways of fighting against corruption:

- public and departmental oversight over the implementation of functions of penitentiary service;
- involvement of high-quality personnel;
- prevention of penitentiary servants and persons serving their sentences from “growing too close” to each other.

The content of these methods enables to conclude that those developing the Action Plan considered the following as factors favourable for corrupt practices in the sector of penitentiary service:

- inefficient oversight;
- lack of high-quality personnel;
- the “growing too close” of penitentiary servants and persons serving their sentences.

It is evident that this is not the full list of factors favourable for corrupt practices. In particular, the following are favourable for corrupt practices in the penitentiary service as well:

1. low level of awareness of persons serving their sentences on their rights and their insufficient capacity for the protection of rights. To the above may be referred also other manifestations of vulnerability of these persons, such as the low level of education, existence of health issues, drug addiction, etc.
2. The intentional abuses by penitentiary servants, which do not result just from the

“growing too close” of penitentiary servants and persons serving their sentences or from weak oversight. The legislative gaps and the wide spectrum of discretion by officials, in their turn, serve as a basis for abuses. Another manifestation of the issue of discretion is the enormous dependence of the persons serving their sentences on penitentiary servants. This circumstance makes convicts demonstrate loyalty to various corruption abuses.

3. The inner subculture (values, norms) of penitentiary institutions, where both servants, and persons serving their sentences consider certain corrupt practices permissible and even acceptable.
4. The nature of penitentiary institutions as a closed system, which is a serious obstacle for receiving information.
5. The regulations of penitentiary institutions, which are effective since the Soviet period and which have lost actuality. The circumvention of non-actual rules may be considered to be acceptable both by servants, and persons serving their sentences. Hence, the more senseless, outdated or uselessly strict the existing rules are, the more the possibility of violation thereof, and consequently the higher corruption risks will be.

Thus, even not the full list of the above-mentioned factors proves the incompleteness of the provisions on the sector of penitentiary service within the Strategy. Those provisions should have included the following:

- activities aimed at raising awareness of rights among persons serving their sentences;
- amendments of a legislative nature aimed at clarification of the spectrum of discretion of penitentiary servants;
- measures directed to changing the informal rules promoting corruption;
- introduction of new mechanisms for ensuring openness of information in penitentiary institutions;
- review of outdated regulations of penitentiary institutions.

Three actions are envisaged for the implementation of provision 40 of the Strategy (improve mechanisms for public and departmental oversight over the implementation of functions of Penitentiary Service).

The provision of the Strategy also provides for an improvement of mechanisms of public oversight; however, no any action aimed at the development of the public element is available in all the three measures. Only action 40.2 mentions that the reports of the Public Monitoring Group and the comments thereon by the Ministry of Justice of the Republic of Armenia are to be posted on the official website of the Ministry of Justice of the Republic of Armenia. It is obvious that the reports to be posted on the website are too insufficient to serve the aim of improving the mechanisms of public oversight.

Whereas, it was necessary to plan other actions as well, promoting the following:

- finding and introduction of new mechanisms for public oversight (for instance, through groups being created on the basis of new principles);
- development of capacities of members of the existing groups performing public oversight;
- involvement of new members and structures in the existing groups performing public oversight;
- extension of competencies of the existing groups performing public oversight;
- making reports/proposals of the existing groups performing public oversight a subject matter of mandatory discussion by the Ministry, etc.

Action N 40.3 mentions about clarifying the functions of the Department of Supervision within the Ministry of Justice of the Republic of Armenia and defining the administrative monitoring procedures. Of course, these two actions are required; however, it would be advisable to predetermine the direction of change and the target. For example, if the functions of the Department of Supervision of the Ministry were considered by those developing the action to be limited, the nature of the changes, such as the extension of functions, should have been

demonstrated as well. Otherwise, the concept of “clarifying” just proves that the only deficiency of the current function is its lack of clarity.

The concept of “total number of published outcomes of participatory monitoring” is used in the first monitoring indicator of provision 40 of the Strategy, while the definition thereof is not provided.

The concept of “frequency of participatory monitoring” is used in the second monitoring indicator, yet its content is not expanded on.

Besides, only quantitative data are used in both indicators —

- the number of administrative inspections by the Department of Supervision within the Ministry of Justice,
- and the total number of reports published by the Public Monitoring Group of the Penitentiary Service.

However, it is obvious that the numbers of administrative inspections and published reports do not stand in any way for improvement of oversight mechanisms. Furthermore, these indicators may bring to a state where the frequency of inspections increases unnaturally, which, however, may have no any direct connection with the quality of inspection.

Two actions are envisaged for the implementation of the provision 42 (Encourage the recruitment of quality human resources in the penitentiary service) of the Strategy. These actions, however, are not sufficient for attaining the set goals. Where by saying recruitment of quality human resources we also (or primarily) mean recruitment of new human resources, either actions are extremely insufficient for recruitment of new specialists. In particular, for recruitment of quality human resources in any system, not only and not as much the availability of "objective qualification criteria", "job descriptions" and "training programmes" is taken into account as:

- attractive workplace conditions and environment;
- competitive salary;

- opportunities for self-expression and professional self-realisation;
- perspectives of official promotion;
- social status and standing, etc. of the offered position.

Yet, these factors are not reflected in the proposed actions.

The outcome of the first year (2010) of this action is also repeated in 2011 and 2012 with slight modification. Where the review of the programmes is considered as an uninterrupted process lasting for three years, the portion/percent of programmes that had to be implemented each year should have been mentioned. This should have been done to ensure the measurability of the outcome.

The second monitoring indicator of the action is not substantiated which implies "growth of average salary of the penitentiary servants ..." Where none of the two actions (42.2 and 42.3) provides for growth of salary of penitentiary servants, it is not clear why this indicator has been adopted.

Only one action (Define cases when transfer of the relevant penitentiary servant to another position should be mandatory) is envisaged for the implementation of the provision 43 (Prevent penitentiary servants and persons serving their sentences from growing too close to each other) of the Strategy. Even when just looking through, it becomes clear that this action may not support "the prevention of [...] servants and persons serving their sentences from growing too close to each other".

First, the planned action and outcome fail to correspond to each other. The action mostly presupposes development of a system of sanctions. The definition of "Define cases when transfer [...] to another position should be mandatory" supposes that transfer to other position must be a consequence of specific situations, cases. Yet, the "rotation procedure" provided for by the outcome of the action implies a much more comprehensive and grounded system. It is apparent that the "definition of mandatory cases" is extremely insufficient for having a rotation procedure in place. For elaboration of a procedure, in addition to cases, it is also necessary to develop principles, mechanisms, etc. Thus, the action is worded narrower than the envisaged outcome.

Based on the contents of the action and the outcome, one may suppose that persons having developed the programme consider that the main method for preventing the "growing too close" is the rotation of servants. However, this action addresses only one factor of the "growing too close", i.e. long-term sustainable communication between the penitentiary servant and persons serving their sentences. Other factors promoting the growing too close are not targeted at all. These are the following, for example:

- provision by persons serving their sentence of certain informal services to the management of the penitentiary institution, as a result of which the latter acquires mutual obligation of provision of services. For example, conflict management among the imprisoned by kingpins, efforts aimed at observance of internal discipline, settlement of certain household issues of the imprisoned are among those issues;
- informal rules encouraging the growing of penitentiary servants and persons serving their sentence too close. For example, when the penitentiary servant himself is the carrier or the supporter of certain elements of criminal culture.
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#### **(b) "Judicial Acts Compulsory Enforcement Service"**

In the field of "Judicial Acts Compulsory Enforcement Service", actions arising from the Anti-Corruption Strategy of the Republic of Armenia are almost completely reflected in the Action Plan for the Implementation of the Strategy.

However, there is an issue specified in the Strategy in connection whereof no actions aimed at overcoming it are envisaged: "[...] appeals related to the exercise of discretionary powers, particularly in case where a compulsory enforcement officer has not infringed the procedure for compulsory enforcement, do not always serve as an effective protection measure and a preventive factor for proper exercise by the compulsory enforcement officer of his or her powers." One of the reasons therefore is the lack of compulsory enforcement principles set forth through legislation. Then it is stated that a single provision envisaged with regard to the consideration by an enforcement officer of persons' interests is perhaps the provision in place in



Article 45 of the Law of the Republic of Armenia "On Judicial Acts Compulsory Enforcement Service" pursuant to which an enforcement officer shall be obliged to use the rights vested in him or her in compliance with the law and never allow violation of rights and lawful interests of citizens and organisations".

Thus, though the analysis reveals that there is a need of legislative amendments, no action is envisaged in the Action Plan with this regard. In fact, the broad discretion vested in enforcement officers creates significant preconditions for corruption risks. Moreover, public discontent regarding the Judicial Acts Compulsory Enforcement Service and suspicion about the existence of corruption risks in the system are mainly due to the fact that the powers are of discretionary nature. The volume and contents of the claims filed for challenging the actions of the Judicial Acts Compulsory Enforcement Service through judicial procedure also evidence this. Yet, this essential issue is not reflected in the Action Plan.

The provision 47 of the Action Plan provides for the following: "increase the capacity of compulsory enforcement officers to detect the debtor's property", and the only action corresponding to the provision states: "improve the capacity of compulsory enforcement service to detect debtor's property". As we see, there is no significant difference between the wording of the provision and that of the action, and the meaning and the level of specificity appear to be almost the same. The action supposes broader and more comprehensive measures than the provision; yet it should have been the opposite. Thus, where the provision envisages increase of the capacity of "compulsory enforcement officers", the action provides for improvement of the capacity of the "compulsory enforcement service". It is obvious that more complex and differentiated actions are implied for the capacity building of the service than for the capacity building of compulsory enforcement officer.

### **(c) "Police service"**

In the field of "Police Service" actions arising from the Anti-Corruption Strategy of the Republic of Armenia are almost completely reflected in the Action Plan for the Implementation of the

Strategy. The Action Plan lacks the action provided for in the Strategy, which reads as follows: "ensure the proper state of furnishings, line-markings intended for organising road traffic".

Besides, the Action Plan suddenly passes from the provision 50 of the Strategy to the provision 52, omitting the provision 51.

The provision 50 of the Strategy envisages the following: "Increase the transparency and openness of traffic police activities". One of the actions envisaged for the implementation of this provision relates to the transparency of off-budget fund, and the other — to ensuring access to statistics. Though both actions are required and important, it is possible to provide for other actions for transparency of activities; for example, regular publication of information on disciplinary penalties, removals from office as a consequence of abuse of powers or under-fulfilment thereof.

Action 52.1 (Improve the State register system) provided for the implementation of the provision 52 (Increase the effectiveness of the State register of population) of the Strategy has rather vague wording. It is not clear what specific actions are supposed for the improvement of the system.

The only action envisaged for the implementation of the provision 53 (Introduce adequate legal norms to ensure the security of personal data) of the Strategy fails to provide for any action as regard the cases of (for example, use of commercial purposes) illegal disclosure, sales of personal data. Security of data mainly refers to the protection thereof, and there are corruption risks right in cases of sales or illegal use of data. Yet, the above-mentioned action mostly aims at replenishing the database and improving data quality, reliability. No actions directly aimed at ensuring security are envisaged.

The second element — "**increase their responsibility**"— of the provision 54 (Ensure the lawfulness of the police activities and increase their responsibility) of the Strategy does not express any precise meaning. It is not clear, for example, whether it refers to the responsibility of the police or of the potential offenders. The meaning of the word "increase" is not clear, either. Use of the term "toughen" with the word "responsibility" would be more relevant.

With regard to the responsibility, the expected outcomes state: "Guaranteeing the inevitability of

responsibility for the police officers having issued an illegal administrative act". It is not clear, however, which are the measures guaranteeing the inevitability of responsibility? For the actual guarantee it was necessary to provide for changes in the applicable regulations.

At the same time, the problems of use of unlawful force and inaction by the police, which is in the focus of public attention, are not reflected in the actions. On the other hand, the sponsorship by the police for some "privileged" layers are also evident corrupt practices. Yet no actions are envisaged for encountering such priority issues.

The basic measure for the action 55.1 (Minimise the need for intermediary police units and police officer-citizen contacts) of the provision 55 (Ensure proper quality of the work and service of the police bodies to the public) of the Strategy is considered to be the posting of application forms for the services being provided in the official site of the Police, the introduction of an accessible system for the filing and processing thereof. It is apparent, however, that the difficulties of police officer-citizen contacts are not conditioned only by the issues of filing of applications. Such difficulties of contact are, for example, the low level of public trust in the police system, low level of communication standards of some officers and lack of communication skills. Consequently, it was necessary to provide for actions with regard to these issues.

For the full implementation of the provision 55 of the Strategy it was also necessary to provide for actions aimed at the developing of skills needed for customer service.

In the police field, there are also serious corruption risks in the process of institution of criminal cases, making decisions on rejecting the institution of cases. Among the provisions of the Strategy, there are no provisions related to the enhancement of manageability and transparency of this process.

#### **(d) "Judicial system"**

In the field of "Judicial System", actions arising from the Anti-Corruption Strategy of the Republic of Armenia are completely reflected in the Action Plan for the Implementation of the Strategy.

The sub-chapter "judicial system" of the Anti-Corruption Strategy provides for "simplification of formal trial procedures and unburdening of courts". Both in the Strategy Plan and the Action Plan, the only measure for applying this action provides for the application of alternative measures for settlement of disputes. In its turn, for implementation of this provision only the action "clarify the legislative frameworks for use of arbitration with regard to family, labour disputes" is envisaged. Thus, the "simplification of formal trial procedures and unburdening of courts" is equalised through the three-layer planning to the "clarification of legislative frameworks".

Yet, it is obvious that the unburdening of the courts is possible and may be carried out by measures other than the legislative clarification. For example, under the unburdening of courts it may and should be understood not only the decrease of the number of cases subject to trial but also assurance of reasonable time limits for examination of cases. This will enable to unburden the court by more rapid examination of the cases without decreasing the number of the cases.

If we consider the hypothesis that there are subjective reasons (undue delays by judges or weak motivation to complete the case within reasonable time limits) for accumulation of cases in courts it is possible to partially unburden courts through encouraging judges and imposing sanctions on them. Actually the number of cases will not change on a long-term perspective (for example, on an annual basis) the courts will get unburdened on a short-term basis (a month, a quarter).

Thus, the mentioned examples show that the planned legislative amendments are not the only way to achieve the outcome.

One of the expected outcomes for the action 37.3 (Increase criminal liability for any interference with the activities of the court with a view to obstructing the administration of justice) is the "assessment of public trust in the judiciary". It is not clear how the proposed action relates to this outcome.

Various issues related to the corruption risks in the judicial system have been left out of the Anti-Corruption Strategy Plan. These are the following, for example:

- potential corruption risks connected with the procedure for assessing the qualification for

engaging in the list of candidates for judges;

- absence of objective criteria and procedures for the performance evaluation and promotion of judges;
- absence of transparent and predictable procedures for subjecting a judge to disciplinary liability;
- absence of mechanisms to ensure the complete independence of the judicial system from the executive power;
- absence of mechanisms to ensure the independence of a judge within the judicial system;
- absence of a system of objective (random) distribution of cases among the judges;
- absence of a system of publication by the judiciary of reports on its activities.

At least part of these issues should have been included in the Strategy, and anti-corruption actions should have planned correspondingly.

### 3.2. Effective anti-corruption body

#### 3.2.1 Bodies for fight against corruption and standards set for them

Bodies for fight against corruption are classified into three groups:

##### **(a) Multifunctional model**

This model represents the most vivid example of the theory of a common body, for example, based on three pillars, investigation, prevention and work with society, as well as education. In many cases prosecution remains a separate function for ensuring restraints and balances in the system. The model is usually presented in the examples of Hong Kong and Singapore.

##### **(b) Law enforcement activities model**

The law enforcement activities model possesses various forms of specialisation and may be

introduced in inquest, investigative bodies and prosecutor's office. Revealing, investigation and prosecution of corrupt practices may also be consolidated in a common body. The law enforcement activities model also contains elements of prevention, coordination and examination.

### **(c) Model of prevention body**

The model of prevention body is the most common model among the existing ones. At the same time, it may be divided into three main groups. These are the following:

- Consultative councils for fight against corruption. These councils are usually set up to guide, in a comprehensive manner, the efforts aimed at carrying out anti-corruption reforms, in particular, for the purpose of supervision over the process of development, implementation and monitoring of a national strategy. Usually they are collegial bodies that consolidate various agencies and ministries, very often, high-level representatives, and sometimes, even the civil society.
- The central bodies for prevention of corruption are directly created for the prevention of corruption, but they enjoy broader competences than the above-stated councils for fight against corruption. Commissions may be assigned to the coordination of anti-corruption strategies but they have a number of other functions, for example, assessment of corruption risks, prevention of corruption, elaboration of guidelines/methodologies for public awareness and education, exercising control over the conflict of interests, income declaration, funding of a political party and lobbying, revision of legislation from the anti-corruption standpoint.
- Public institutions, part of responsibilities whereof constitutes promoting the process of prevention of corruption, and that are directly deemed or are not set up as "bodies for fight against corruption" (for example, commissions for internal professional ethics, commissions for public services, etc.).

The study of the international practice relating the anti-corruption bodies enables to reveal a number of requirements for anti-corruption mechanisms/bodies that are the following: professionalism, independence and autonomy, accountability and transparency, supply of resources, social engagement and inter-agency cooperation, international cooperation and

availability of an assessment system.

**(a) Professionalism:**

Fight against corruption implies availability of special experience, knowledge and skills in various fields, including in the fields of law, finances, economics, accounting, social sciences, etc.

International standards do not single out any best model of a specialised institution for fight against corruption. Actually, the fact of engagement of a relevant number of specialists in the functioning structures is already in compliance with the specialisation requirements provided for by international treaties.

**(b) Independence and autonomy:**

Anti-corruption bodies should be provided with the opportunity to perform their functions effectively, without undue influence, at their own discretion, and without prior consultation or permission.

The existence of a real political will combined with the availability of adequate resources, powers and staff is of significance equivalent to the requirement of formal and financial independence as required by international documents, or even of more crucial significance. Consequently, in accordance with the international standards, one of the main features of specialised bodies is the relevant level of structural and functional autonomy provided with institutional and legal mechanisms, rather than the complete independence. The independence of a body for fight against corruption is determined based on several factors:

- *Legal ground*

The body carrying out fight against corruption should have a clear legal ground that will establish its competence, institutional standing, appointment of a head of the body and removal from office, internal structure, functions, powers, the budget, issues regarding the human resources, responsibility, etc. The legal ground should, as far as possible, be provided for by law rather than by secondary legislation acts, decisions of the Government or decrees of the President.

- *Institutional positioning*

A separate permanent institutional structure — an agency, a subdivision or a commission — is more transparent and independent on its own than a department or a subdivision created within the system of the executive power (internal affairs, Ministry of Justice, Ministry of Finances, etc.). Similarly, formation of an anti-corruption unit in the form of a body independent from the executive power or within an existing body may create sufficient grounds for autonomy.

- *Appointment of high-ranking officials*

The selection process of the head of the body must be transparent. Necessary requirements to be appointed at the position of a head include professionalism, reputation, prominent achievements and work experience. The universal process of appointing heads represents a special process involving a number of decision-making stages for the appointment at the position; the appointment by one person is not considered best practice. Moreover, the position of a head of an anti-corruption body may be filled through competition. Issues with regard to the termination of a term of office must also be regulated thoroughly.

- *Recruitment of staff*

The selection and appointment of personnel of an anti-corruption body must be based on an objective, transparent and merit-based system. Personnel should enjoy necessary socio-economic guarantees.

- *Budget and fiscal autonomy*

Adequate funding is of crucial importance Sustainable funding of the anti-corruption body needs to be secured and the ungrounded discretion of the executive body over the level of funding should be prevented.

**(c) Accountability and transparency:**

The independence of specialised bodies in the fight against corruption must not be absolute. Such bodies are required to submit regular performance reports to executive and legislative bodies, and enable public access to information on their work. Bodies conducting investigation of



cases on corruption crimes must be subject to prosecutorial and court supervision. Accountability must also include accountability towards the public.

**(d) Adequate financial resources, training and powers:**

The requirement to provide anti-corruption bodies with adequate training and adequate financial resources is an obligation included in all international legal instruments.

International conventions provide for protecting persons (procedural and non-procedural witness protection measures) who help state authorities in investigating corruption cases and conducting criminal prosecution, and raising the incentives for persons to report corruption and co-operate with state authorities (ranging from whistleblowers' protection to the possibility of granting limited immunities and reduction of punishment to collaborators of justice).

**(e) Involvement of the public and inter-agency co-operation:**

One of the important features of specialised bodies established by various international documents is the co-operation with representatives of the civil society and private sector. An anti-corruption body cannot function in a vacuum and none can perform all tasks relevant for the suppressions and prevention of corruption phenomena alone. Thus, according to international standards one of the features of bodies in the fight against corruption is close inter-agency co-operation and exchange of information.

In different countries these issues are addressed either through creation of special multidisciplinary co-ordinating commissions, through special legal provisions on co-operation and exchange of information or by signing special agreements and memorandums among relevant institutions on co-operation and exchange of information.

**(f) International co-operation and creation of networks:**

Success in the fight against corruption is mainly preconditioned by co-operation. Creation of networks among anti-corruption bodies is a useful platform for the exchange of best practice.

**(g) Evaluation:**

The introduction of internal performance evaluation mechanisms is crucial. The evaluation

requires the availability of specialised staff with special skills and resources, proper methodology to assess outcomes, criteria and tools.

### 3.2.2 Compliance of current anti-corruption mechanisms with international standards

The special institutional system for the fight against corruption introduced in the Republic of Armenia does not function effectively. In particular, the requirement for specialisation of anti-corruption bodies is not observed. The Anti-Corruption Council is formed from heads of state institutions, which despite the level of professionalism, do not ensure representation of all professions required in the fight against corruption. On the one hand, there exist no permanently functioning individual structural units and core anti-corruption measures are carried out by responsible bodies.

A permanently functioning working group that would have ensured the smooth operation of Anti-Corruption Strategy Implementation Monitoring Commission of the Republic of Armenia does not exist as well. The Anti-Corruption Strategy Implementation Monitoring Commission being an institute that functions with wide participation of the civil society representatives but not being an institute that consolidates analytical, scientific potential, is not able to ensure effective monitoring of anti-corruption policy due to its mechanism for organisation and formation.

Transparency and accountability of activities of the established body is not ensured as well. The society engagement is limited, there exist no sufficient grounds for ensuring complete participatory process.

There exist issues in terms of inter-agency co-operation. Sustainable co-operation among agencies has not been formed yet, distribution of measures of the Plan among responsible agencies is often due to the fact that the process is not co-ordinated.

The evaluation system is not completely established and developed. Apart from previously defined expected outcomes and indicators there exist no serious qualitative evaluation methods and scales applied in the course of monitoring. On the other hand, the evaluation conducted is administrative and is limited to decision-making on the adoption of specific draft documents on

legislative initiatives. Outcomes and achievements are assessed by bodies responsible for the implementation of measures without possibility of reassessment in case of which there exist a real threat of amplification, distortion of outcomes.

### 3.2.3 Rationales for establishing anti-corruption bodies and selecting the model

It is worth mentioning that researches in the phenomena of corruption give different answers to the question whether it is preferable to establish a single anti-corruption body or to direct efforts to the strengthening of institutions constituting a part of a complete infrastructure already existing in the country.

The main rationale for establishing anti-corruption body is contribute to the reduction of corruption through a specialised institution. A specialised anti-corruption body may be needed when structural or operational deficiencies among existing institutional framework do not allow for effective preventive and repressive actions against corruption.

The underlying rationale for establishing a single anti-corruption institution is based on the expectations that this body (a) cannot itself be tainted by corruption or political intrusion; (b) will resolve co-ordination problems among multiple agencies through vertical integration, (c) can centralise all necessary information and intelligence about corruption and can assert leadership in the anti-corruption effort.

Meanwhile, this model may create danger that a single anti-corruption body (a) can create yet another layer of ineffective bureaucracy, (b) its can divert resources, attention and responsibilities from existing control institutions and donor resources from priority areas of reform, (c) it can invoke jurisdictional conflicts and turf battles with other institutions, and (d) it can be abused as a tool against political opponents.

Thus, in the selection of a model of an anti-corruption body the following factors should be taken into consideration (a) estimated level of corruption in the country, (b) integrity, impartiality, competence and capacities of existing institutions, (c) a new anti-corruption body, in contrast to the narrow specialisation of the existing bodies; it is important that it evaluates whether the

Republic of Armenia Anti-Corruption Strategy is expedient to implement through promoting both specialisation in the existing bodies of the new specialised anti-corruption body and concentrating on corruption risks, (d) constitutional framework, in many countries creating an independent bodies would face constitutional barriers, (e) existing legal framework and the national system of criminal justice, (f) available financial resources.

Comparing three models of anti-corruption bodies with peculiarities of the legal system of the Republic of Armenia it is possible to come to a conclusion that the first and the second models are, in fact, incompatible with fundamental peculiarities of the legal system of the Republic of Armenia. Thus, both universal model of an anti-corruption body and law enforcement model imply that investigation, prevention, awareness raising and educational functions are brought together in one state body, i.e. establishment of such a universal body that will bring together both investigation of corruption crimes and criminal prosecution against those committing such crimes.

Whereas the investigation of alleged criminal cases in the legal system of the Republic of Armenia and pursuing a charge brought with regard to these case are clearly differentiated and carried out by different bodies, whereas preliminary investigation is carried out by investigative bodies functioning within the structure of a number of executive bodies (the Ministry of Defence of the Republic of Armenia, the Police adjunct to the Government of the Republic of Armenia, the State Revenue Committee adjunct to the Government of the Republic of Armenia, the National Security Service adjunct to the Government of the Republic of Armenia) or structurally independent investigative bodies (Special Investigation Service of the Republic of Armenia). In contrary, public charge is pursued in court exclusively by the Prosecutor's Office of the Republic of Armenia. No investigative body has a function of pursuing a charge. Meanwhile, the Prosecutor's Office by no means carry out investigation function. Thus, bringing together of at least two of these functions in one body will be incompatible with the legal system of the Republic of Armenia.

Moreover, this peculiarity of the legal system of the Republic of Armenia derives from the Constitution of the Republic of Armenia Article 103 of which first of all describes the Prosecutor's Office as a uniform system and enshrines the exhaustive list of exclusive powers of the

Prosecutor's Office (including instigation of criminal prosecution and pursuing of a charge in court). This constitutional regulation does not allow to have a body in the state system which, being beyond this uniform system of prosecutor's office, would carry out prosecutorial function, for example, instigation of criminal prosecution on corruption cases and/or pursuing of a charge in court with regard to these cases.

Thus, the only model for anti-corruption bodies compatible with the legal system of the Republic of Armenia is the model of preventive anti-corruption bodies.

### *3.3 Effective investigation and punishment*

The next step of the anti-corruption policy is the implementation of effective investigation. Effectiveness of investigation mainly depends on the scope of corruption crimes, their proper criminalisation, independence of bodies detecting, investigating, prosecuting and punishing corruption crimes, their specialisation, capacities, co-operation of law enforcement bodies with one another, with preventive bodies and the public sector, procedural requirements for the investigation, including rules on standards of proof, results of investigation, transparency and publicity of the process.

The scope of corruption crimes, the status and independence of anti-corruption bodies detecting, investigating and prosecuting these crimes are of utmost importance for ensuring effective investigation.

#### **(a) Scope of corruption crimes and their classification.**

It needs to be considered that the Model Criminal Code<sup>22</sup> based on the United Nations Convention against Corruption, provides the following classification of corruption crimes:

1. Corruption offenses — involves bribing officials, bribing of foreign officials and officials of international organisations, bribery in the private sector.

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<sup>22</sup> Model Codes for Post-Conflict Criminal Justice. Model Criminal Code, Vivienne O Connor and Colette Rausch, USIP Press, Washington D.C.

2. Corruption-related offenses — involves abuse of influence, abuse of official position, stealing of property by an official, unlawful appropriation or other non-targeted use, unlawful enrichment, concealment.

Whereas, the Criminal Code of the Republic of Armenia does not contain general provisions on active and passive bribery, individual elements thereof are found in a large number of provisions which does not create proper preconditions to conduct effective criminal policy.

Thus, the list of corruption crimes in the Republic of Armenia is defined by the Prosecutor General of the Republic of Armenia. The list of corruption crimes was approved by the Order of the Prosecutor General of the Republic of Armenia No 82 of 19 November 2008 and amended by the Order No 12 of March 2013. Accordingly, corruption crimes include 31 types of crimes. The study of the list allows to make two observations:

- a. when including crimes in the list no criteria has been applied, which does not have any scientific justification, the principles based on which the corrupt nature of crimes are determined are not uniform and clear. For example, unlawful arrest is observed as a corruption crime, whereas illegal breach of secrecy of correspondence, telephone conversations, postal, telegram or other communications of a person by use of official position — is not. Similarly, it is not understandable why illegal placing or keeping a person in a psychiatric hospital with mercenary motives and by use of official position is not observed as a corruption crime but compelling to testify is a corruption crime.

- b. corruption crimes are considered acts in which the fact of using official position or entrusted power for gaining personal interest is not underlined in cases when the fact of using official position or entrusted power for gaining personal interest underlies in different definitions of corruption. For example, crimes enshrined in Article 205 of the Criminal Code of the Republic of Armenia (Maliciously evading payment of taxes, duties or other mandatory payments) and in Article 353 (Intentional non-execution of a judicial act) are observed as corruption crimes. Committal of these acts may contain risks of corruption but the possibility of containing risks of corruption is not sufficient to qualify such acts as corruption crimes, moreover, these acts must — by virtue of the “possibility” factor — become a subject matter of observation, monitoring

and receive further adequate legal assessment and qualification in case of proof of relevant facts and motives.

The fact that the list of corruption crimes has not been drawn up on the basis of a proper methodology does not allow to have a clear image of corruption and effectiveness of the fight against it.

Thus, the number of cases examined in courts and persons charged with regard to these cases under Article 205 of Criminal Code of the Republic of Armenia during 2012 (24 cases and 31 persons) and not considered corruption crimes but observed as such is the highest among all corruption cases<sup>23</sup>. Cases examined in court under this Article comprise 19% among the total number of cases (almost every fifth case). It is followed by point 1 of part 2 of Article 179 (Embezzlement or peculation by use of official position) — 14% by its prevalence. Article 214 (Abuse of powers by officers of commercial or other organisations) ranks third — 12%.

By the indicator of prepared and closed materials this Article essentially exceeds indicators of other Articles as well. In 2012, 325 materials were prepared and closed on the ground of Article 205 (39% of the total volume of materials) out of which 86 (28% of all instituted cases) criminal cases were instituted. It should be mentioned for comparison that Article 308 of the Criminal Code of the Republic of Armenia ranks second (Abuse of official powers), on the ground of which 127 materials were prepared and closed in 2012 (15% of the total volume of materials), out of which 36 criminal cases (12% of all instituted cases) were instituted<sup>24</sup>.

Thus, indicators of this controversial Article exceed the corresponding indicators of the Article ranked second by about 2.5 times. Naturally, the difference in indicators of other Articles is even more enormous.

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<sup>23</sup> Statistical data on preliminary investigation and inquest on cases of corruption crimes in the course of 2012 are available at the following website <http://genproc.am/upload/File/Korupcion%20hanc-hetaQnnutyany%20ev%20naxaqnnuthayn%20ardyunqner%202012%20tarekan%20vichtvyalner.pdf>.

<sup>24</sup> Statistical data on preliminary investigation and inquest on cases of corruption crimes in the course of 2012 are available at the following website <http://genproc.am/upload/File/Korupcion%20hanc-hetaQnnutyany%20ev%20naxaqnnuthayn%20ardyunqner%202012%20tarekan%20vichtvyalner.pdf>.

As a result, reduction in the number of a crime not having a corrupt nature but observed as a corruption crime and having a large proportion, changes the status of corruption and the image of fight against it in Armenia. The 2012 communication on the activities of the Prosecutor General's office of the Republic of Armenia directly states: "Decrease in the number of materials prepared with regard to corruption crimes and instituted criminal cases is also preconditioned by the fact that materials prepared by the elements of Article 205 of Criminal Code of the Republic of Armenia are many among corruption-related materials.

In 2011, different list of high-, medium- and low-risk economic operators were defined by amendments made to the Law of the Republic of Armenia "On organising and conducting controls". Inspections in high risk companies are carried out once a year, in medium risk companies — once every three years, and in low risk companies — once every five years. According to the requirements prescribed by law, the number of inspections was decreased, which mainly resulted in the decrease in the number of materials being prepared and instituted criminal cases"<sup>25</sup>.

**(b) Specialisation, independence and co-operation of bodies detecting, investigating, prosecuting and punishing corruption crimes.**

According to point 61 of the Republic of Armenia Anti-Corruption Strategy and Its Implementation Action Plan for 2009-2012, identification and preliminary investigation of corruption crimes are carried out by the Special Investigation Service, the Police adjunct to the Government of the Republic of Armenia, the National Security Service of the Republic of Armenia. The State Revenue Committee adjunct to the Government of the Republic of Armenia has corresponding functions as well. Oversight over the lawfulness of preliminary investigation and inquest of corruption crimes, as well as pursuing charges of corruption crimes in court are carried out by the Prosecutor's Office of the Republic of Armenia.

Corruption and Organized Crime Department operates within the General Prosecutor's Office of

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<sup>25</sup> The 2012 communication on the activities of the Prosecutor General's office of the Republic of Armenia is available at the following website <http://genproc.am/upload/File/Haxordum%202012.pdf>



the Republic of Armenia, however, in the Republic of Armenia instigation of criminal prosecution on corruption-related crimes, oversight over the lawfulness of inquest and preliminary investigation is not exercised and the charge is not pursued in the court exclusively by officers of the Corruption and Organized Crime Department, but also by other prosecutors from the system of the prosecutor's office, that makes the existence and activities of the specialized subdivision as an end in itself. At the same time, given the diversity of bodies investigating corruption-related crimes, the non-review of the jurisdiction on the basis of criteria in terms of object and subject will not provide for the effectiveness of performance of investigative bodies.

On the other hand, though the UN Convention against Corruption requires ensuring the independence of authorities investigating corruption-related crimes, instigating criminal prosecution and applying punishment<sup>26</sup>, the current legal arrangement fails to ensure complete independence of prosecutors dealing with corruption-related crimes<sup>27</sup>.

The state of affairs as regards the detection and investigation of corruption-related crimes is presented based on a summary of the information on corruption-related crimes received from the prosecutor's office.<sup>28</sup>

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<sup>26</sup> Convention against Corruption, Article 11

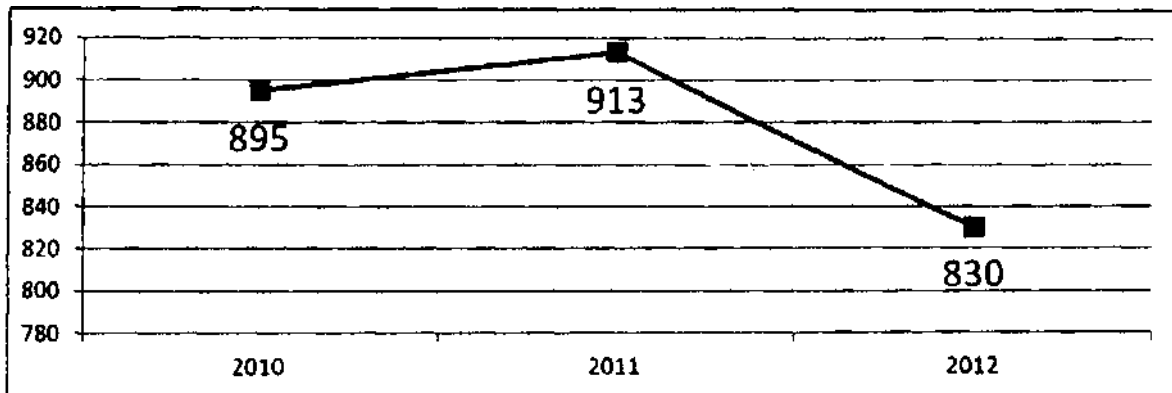
<sup>27</sup> Legislative guide for the implementation of the United Nations Convention against Corruption, Second Edition, 2012, pages 462-465, which is available at: [http://www.unodc.org/documents/treaties/UNCAC/Publications/LegislativeGUIDe/UNCAC\\_Legislative\\_Guide\\_E.pdf](http://www.unodc.org/documents/treaties/UNCAC/Publications/LegislativeGUIDe/UNCAC_Legislative_Guide_E.pdf)

<sup>28</sup> As monitoring indicator of the strategy provision for the increase of effectiveness of the fight against corruption the following has been indicated: introduction of a unified system for the maintenance of statistics on corruption-related crimes is prescribed in the Republic of Armenia; the ratio of the number of criminal cases instituted on corruption-related offences in correlation with the total number of completed cases (the nearer to one, the greater is the efficiency of activities of law enforcement bodies in the fight against corruption); the ratio of the number of dismissed cases on corruption-related offences in correlation with the total number of instituted criminal cases (the nearer to zero, the greater is the efficiency of activities of law enforcement bodies in the fight against corruption); the ratio of the number of judgments rendered by court on corruption-related offences in correlation with the total number of instituted criminal cases (the nearer to one, the greater is the efficiency of activities of law enforcement bodies in the fight against corruption); the ratio of the number of reports on corruption-related crimes made by natural and legal persons through means of mass media addressed to competent authorities in correlation with the total number of criminal cases instituted by these authorities on corruption-related crimes the nearer to one, the greater is the efficiency of cooperation between the law enforcement bodies and the civil society); the ratio of cases on corruption-related crimes instituted upon reports by natural and

The statistical data for 2010, 2011 and 2012 concerning the inquest on corruption-related crimes and results of court examination in the Republic of Armenia have been used for the analysis of statistical data.

The review of statistical data shows that the volume of materials prepared and completed on corruption-related crimes tends to decrease in 2010-2012, although with a slight growth from 895 in 2011, but then with a decline in 2012 reaching 830.

**Diagram 4.** *Volume of prepared and completed materials on corruption-related crimes, 2010-2012*



According to the Statement on activities of the Prosecutor's Office of the Republic of Armenia for 2012<sup>29</sup>, there was an increase by 7,1% in the number of crimes during 2011 while in 2012 the number of cases has decreased by 4.8%.

According to the above mentioned statement by the Prosecutor's Office, 829 corruption-related materials were prepared in 2012<sup>30</sup> which is by 84 or 9% less as compared to the previous year<sup>31</sup>.

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legal persons, means of mass media in correlation with the number of cases instituted upon detection of physical traces and consequences of a crime by the inquest body, investigator, prosecutor, court, judge.

<sup>29</sup> Statement on activities of the Prosecutor's Office of the Republic of Armenia for 2012, which is available at: <http://genproc.am/upload/File/Haxordum%202012.pdf>

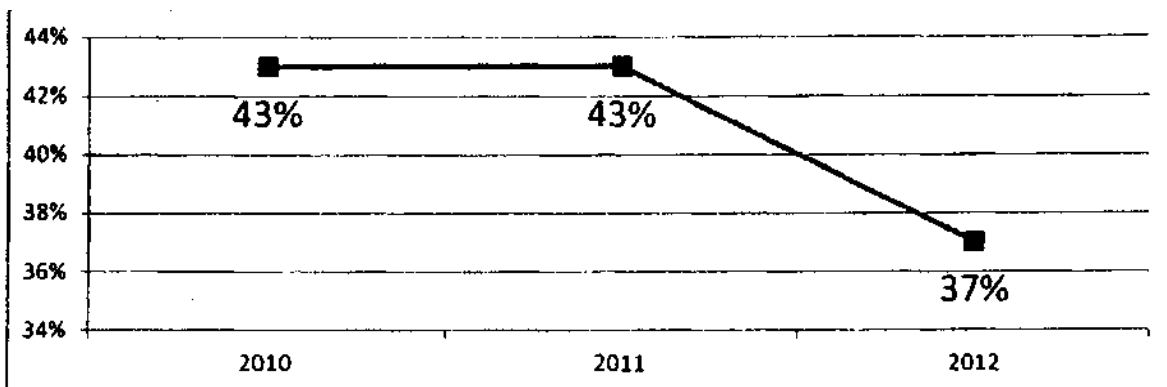
<sup>30</sup> There are no data in the presented reports as to the submitted statements and the proportion of materials prepared on the basis thereof.

Thus, there is a certain difference between the extents of reduction; in 2012 all the cases reduced by 4.8%, while corruption-related crimes reduced by 9%. This means that the volume of corruption crimes has decreased in the total volume of all crimes.

Besides, in 2012 as compared to 2011, the number of criminal cases instituted on corruption-related crimes has decreased significantly, by 22%.

Moreover, the proportion of instituted criminal cases in the total volume of prepared and completed cases during each year also tends to decrease. In 2010 the instituted criminal cases made 43% of prepared and completed cases, while in 2012 this ratio decreased making 37%.

**Diagram 5.** *Percentage of instituted cases in the total volume of prepared and completed cases, 2010-2012*

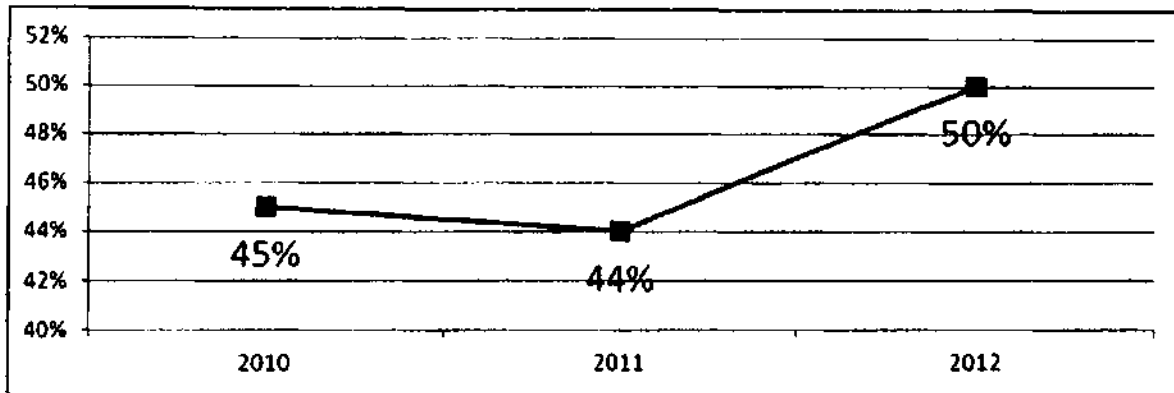


Instead, there was a growth in the proportion of the number of decisions on rejecting institution of a criminal case (in the volume of prepared and completed cases) during three years by reaching 50% from previous 45%.

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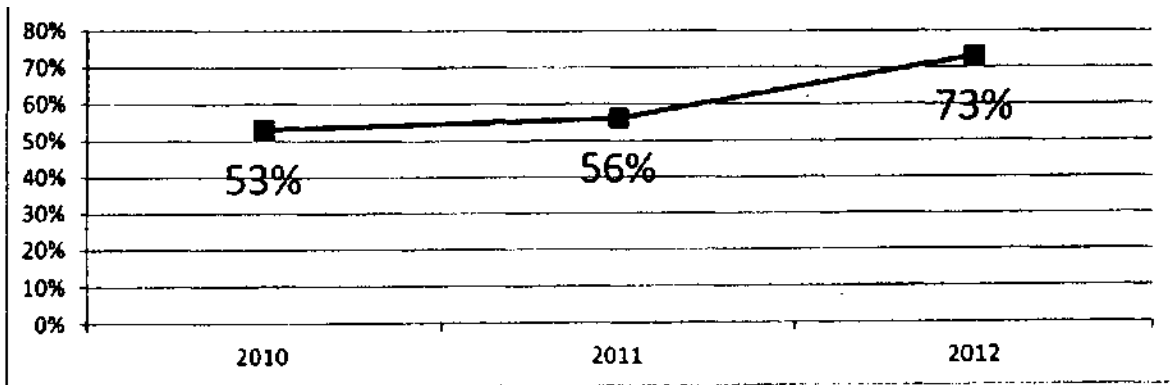
<sup>31</sup> Statement on activities of the Prosecutor's Office of the Republic of Armenia for 2012, which is available at: <http://genproc.am/upload/File/Haxordum%202012.pdf>

**Diagram 6.** *Proportion of the number of decisions rejecting institution of a criminal case, 2010-2012*



It is remarkable that there was a sharp increase in 2012 in the volume of decisions on rejecting institution of a criminal case on an acquittal ground. Thus, in 2010 criminal cases on an acquittal ground were not instituted in the 53% of cases, while in 2012 — in the 73% of cases.

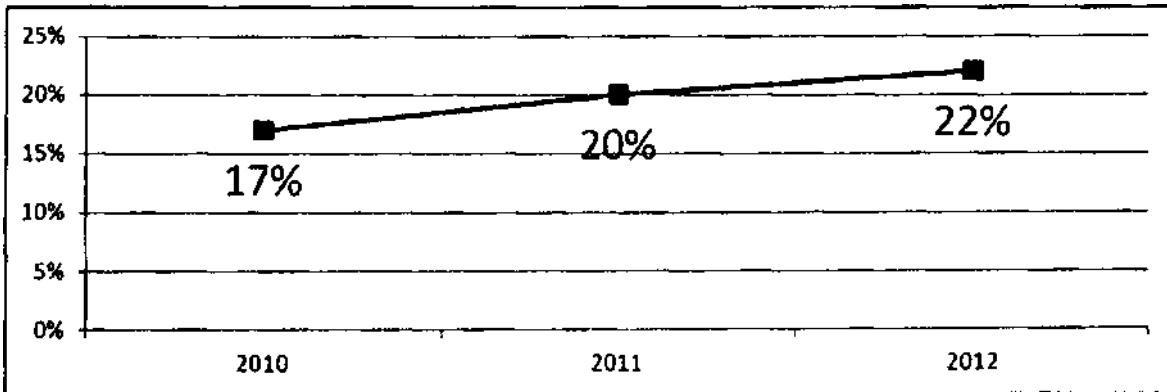
**Diagram 7.** *Volume of decisions on rejecting institution of a criminal case on an acquittal ground, 2010-2012*



When considering the volume of cases dismissed on an acquittal ground in the total volume of completed cases, here again it becomes apparent that there is a year by year growth of the

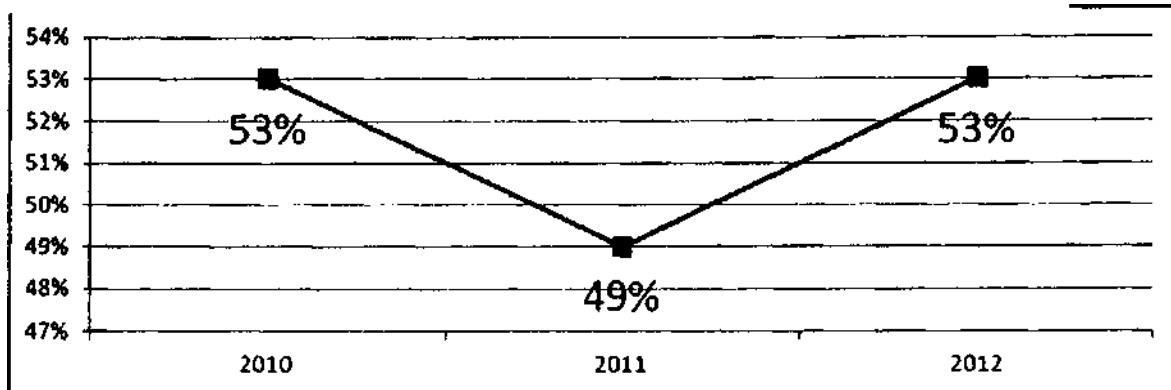
proportion of cases dismissed on acquittal ground. In 2010, 17% of completed cases have been dismissed on an acquittal ground, in 2011 — 20%, and in 2012 — 22%.

**Diagram 8.** *Volume of cases dismissed on acquittal ground in the total volume of completed cases, 2010-2012*



Despite the above mentioned tendencies during three years there was not any considerable change in the proportion of cases referred to the court with an indictment in the total of completed criminal cases. This number made 53% in 2010, 49% — in 2011, and again 53% in 2012.

**Diagram 9.** *Proportion of cases referred with indictment to the court in the total of completed criminal cases, 2010-2012*



In 2012 totally 125 corruption-related criminal cases were heard in courts against 187 persons, while in 2011 — 129 criminal cases against 189 persons. Despite the fact that there were four less cases heard as compared to the previous year, there was an increase by nine, reaching 118 from previous 109, in the number those cases where persons were convicted. The number of convicted person has increased by 22 reaching 180 from previous 158<sup>32</sup>. Thus, within the total volume of accused on trial there is an increase in the proportion of persons convicted for corruption-related crimes.

In 2012, from 180 persons convicted for corruption-related crimes 41 persons (23%) were released from the punishment under an amnesty. In 2011, from 158 convicted persons 73 (46%) were released from the punishment under an amnesty. In 2010, from 182 convicted persons 50 (27%) were released from the punishment under an amnesty. Thus, the percentage of persons released from punishment under an amnesty in the total number of convicted persons has significantly increased in 2011, while again decreasing in 2012 reaching 23%.

Statistical data concerning materials prepared and completed in 2012 evidence that the percent of instituted criminal cases for the crime “abuse of powers by officers of commercial or other organisations” is the highest — 100%. The crime “embezzlement or peculation” is in the second

<sup>32</sup> Statement on activities of the Prosecutor’s Office of the Republic of Armenia for 2012, which is available at: <http://genproc.am/upload/File/Haxordum%202012.pdf>

place with 71%, and “abuse of powers by officers of commercial or other organisations” is in the third place with 56%. Crimes “abuse of official powers” and “maliciously evading payment of taxes, duties or other mandatory payments” are in the 4th and 5th places with 36% and 32% respectively.

The review of the information in numbers regarding the cases that have been referred to the court with indictment from among completed cases in 2012 shows that cases for "abuse of official powers" make the highest percent, 55%, among the cases that have been referred to the court with indictment from among completed cases. The crime “embezzlement or peculation” is in the second place with 52%, and “abuse of powers by officers of commercial or other organisations” is in the third place with 50%. The fourth and fifth places include “maliciously evading payment of taxes, duties or other mandatory payments” and “abuse of power, excess of power, or inaction of power” with 40% and 21% respectively.

Thus, though 27 criminal cases were instituted based on all 27 materials prepared for “abuse of power, excess of power, or inaction of power” (result of 100%), only six of the completed 27 cases were referred with indictment to the court (only 21% or every 5th case). Only every third completed criminal case on “official forgery” was referred with indictment to the court.

In 2012 there were no prepared and completed materials for the crimes “obstructing lawful entrepreneurial and other economic activities”, "smuggling" “anti-competitive practices”, “unlawful participation in entrepreneurial activity”, “use of real or alleged influence for mercenary purposes”, “obstruction of administration of justice and investigation”, “unlawful arrest or detention”, “falsification of evidences”, “unlawful release from criminal liability”.

Moreover, though one material was prepared for each of the crimes of “compelling — by a judge, prosecutor, investigator or person carrying out inquest — to testify”, “delivering an obviously unjust criminal or civil judgement or another judicial act”, however again no criminal case was ever instituted. Materials were prepared in four cases concerning “non-execution of a judicial act”, but again no criminal case was ever instituted.

#### **4. State of affairs as regards honouring the international commitments assumed by the Republic of Armenia in the fight against corruption**

In January 2004, Armenia acceded to **the Group of States against Corruption (GRECO)** and in June and December of 2004 signed and ratified the Council of Europe Criminal Law Convention on Corruption and Civil Law Convention on Corruption respectively.

In the Third Round Evaluation Report on Armenia, as approved by the Council of Europe's Group of States against Corruption (GRECO) at its 49th Plenary Meeting of 29 November - 3 December 2010, Armenia was recommended to bring the domestic legislation in compliance with the requirements of Criminal Law Convention on Corruption and Civil Law Convention on Corruption. The Report included the themes “Incriminations” and “Transparency of party funding in Armenia”. Eight recommendations were given within the “Incriminations” theme, and 11 recommendations were given within the “Transparency of party funding in Armenia” theme. At the same time it was recommended in the report to submit a performance report by 30 June 2012 which has been forwarded to the GRECO Secretariat within the defined time limit.

In general, out of 19 recommendations<sup>16</sup> have been considered to be fully implemented, three recommendations have been considered to be partially implemented, and 0 has been considered as not implemented, and 85% of performance has been registered, which has been an unprecedented indicator.

This is considered to be the best result for performance indicators ever recorded in Third Round Evaluation compliance reports by GRECO.

At the end of the report the head of the delegation of the Republic of Armenia was recommended to provide additional information concerning the partially implemented recommendations up to 30 June 2014<sup>33</sup>.

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<sup>33</sup> 1. The recommendation "vii" for the “Incriminations” theme proposes to analyse part 4 of Articles 312 (Giving bribe), part 4 of Article 312.1 (Giving unlawful remuneration to a public servant not considered as an official) and part 5 of Article 200 (Commercial bribe) of the Criminal Code of the Republic of Armenia and accordingly revise the automatic, and also mandatory, exemption from liability and/or punishment granted in cases of effective regret, and to improve uniformity of provisions by clarifying the conditions



In 2005 the Republic of Armenia signed the **United Nations Convention against Corruption**, which has been ratified by the National Assembly of the Republic of Armenia on 23 October 2006 and entered into force on 11 November 2006.

The Convention defines commitments primarily in the following directions:

- Preventive measures;
- Criminalization and law enforcement;
- International cooperation;
- Measures of recovery of assets obtained through corruption crimes.

The Convention obliges Member States to establish a system of bodies, both preventive and law enforcement, fighting against corruption<sup>34</sup>.

The Third Session of the Implementation Review Group of Convention established by States

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under which the defence of effective regret can be invoked, and by introducing additional guarantees for reducing the opportunity of undue application.

2. Recommendation "viii" for the "Transparency of party funding" theme proposes to ensure that an independent and integrated mechanism is in place for the monitoring of the funding of political parties and electoral campaigns, and that it is given the mandate, the authority and the financial and staff resources to effectively and pro-actively supervise such funding, to investigate alleged infringements of political financing regulations and, as appropriate, to impose sanctions.

3. Recommendation "xi" for the "Transparency of party funding" theme proposes to increase the limitation period for administrative violations of the Law of the Republic of Armenia "On Political Parties" and the Electoral Code of the Republic of Armenia.

<sup>34</sup> According to Article 6 of the UN Convention against Corruption, which relates to the obligations of establishing a preventive anti-corruption body:

"1. Each State Party shall, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies, as appropriate, that prevent corruption by such means as:

(a) Implementing the policies referred to in article 5 of this Convention and, where appropriate, overseeing and coordinating the implementation of those policies;

(b) Increasing and disseminating knowledge about the prevention of corruption.

2. Each State Party shall grant the body or bodies referred to in paragraph 1 of this article the necessary independence, in accordance with the fundamental principles of its legal system, to enable the body or bodies to carry out its or their functions effectively and free from any undue influence. The necessary material resources and specialized staff, as well as the training that such staff may require to carry out their functions, should be provided.

3. Each State Party shall inform the Secretary-General of the United Nations of the name and address of the authority or authorities that may assist other States Parties in developing and implementing specific measures for the prevention of corruption."

Parties to the UN Convention against Corruption took place in Vienna on 18-22 June 2012, in the course of which Kyrgyzstan and Lithuania were chosen by drawing lots as two countries carrying out the monitoring over the implementation of the Convention in Armenia.

It has been the first time that Armenia has undergone monitoring as regards implementation of the UN Convention against Corruption, within the framework of which the results for the implementation of Chapter 3 — Criminalization and law enforcement, and Chapter 4 — International cooperation, of the Convention against Corruption have been evaluated.

The questionnaire regarding the implementation of the UN convention against Corruption has been completed through the OMNIBUS Survey software based on competent bodies of the Republic of Armenia involved in the working group.

The Ministry of Justice of the Republic of Armenia has completed the activities of reviewing and summarising the answers to the questionnaires submitted by competent authorities of the Republic of Armenia, and the completed questionnaire has been submitted to the Secretariat of the United Nations Office on Drugs and Crime on 10 January 2013 whereon the Government of the Republic of Armenia has been informed by the letter of the Ministry of Justice of the Republic of Armenia No 04/294-13 of 22 January 2013. As of June 2013 the final monitoring report has not been yet submitted to the Republic of Armenia.

Armenia is involved also in Istanbul Anti-Corruption Action Plan of **the Organisation for Economic Co-operation and Development** initiated for eight former Soviet Union countries. It is aimed at improving anti-corruption policies of the given countries through recommendations elaborated by international experts.

The Second Round Monitoring Report on Armenia was adopted at the 10th Monitoring Session of the Anti-Corruption Network for Eastern Europe and Central Asia Istanbul Anti-Corruption Action Plan of the Organisation for Economic Co-operation and Development on 30 September 2011.

It analyses the progress made by Armenia as regards the development of anti-corruption reforms and the implementation of recommendations received under the Istanbul Anti-Corruption Action Plan since the first monitoring phase in 2006.

The report analyses also the recent developments and gives new recommendations for three areas: anti-corruption policy, criminalisation of corruption and prevention of corruption. The report states that out of 24 recommendations three were fully implemented, nine recommendations were largely implemented, 11 recommendations were partially implemented, and one recommendation was not implemented. The report contains 20 new recommendations which are stated under sections "Anti-corruption institutions", "Criminalisation of corruption" and "Prevention of corruption".

Armenia is involved in the **European Neighbourhood Policy and Eastern Partnership** processes. The aim of the European Neighbourhood Policy and Eastern Partnership is to deepen political cooperation and economic integration with the EU. Eastern Partnership implies a higher level of political integration involving also new opportunities for concluding accession agreements, as well as prospects for the integration into the economy of the European Union. Multilateral cooperation within the framework of Eastern Partnership is implemented through four thematic platforms: 1. Democracy, good governance and stability; 2. Economic integration and convergence with EU policies; 3. Energy security; and 4. Contacts between people.

Within the framework of the European Neighbourhood Policy of the European Union, the European Union and the Republic of Armenia have ratified Action Plan in 2006, where the fight against corruption is defined as a priority area. The Action Plan for Armenia involved eight anti-corruption measures among special priority area, including: guaranteeing adequate examination and prosecution of corruption-related crimes, bringing the Criminal Code in line with the international standards, development of Codes of Ethics for prosecutors and judges, establishing sanctions in case of wrong declaration of assets and income by officials, increasing the salary of judges.

A Country Strategy Paper for Armenia has been adopted within the framework of the European Neighbourhood Policy which provides for actions for the period of 2007-2013. It enshrines three priority sectors of reforms, the first of which refers to the development of democratic structures and effective management. The mentioned sector has three subsectors: 1. rule of law and judicial reforms, 2. reforms in the public administration and local self-government systems which also

includes finance management, internal financial supervision and external audit, as well as fight against corruption and 3. protection of human rights and freedoms, civil society.

This strategy formulates common objectives on the basis of which National Framework Programme for 2007-2010 has been adopted. The Programme is targeted at European Neighbourhood and Partnership mechanism which contributes to the implementation of the European Neighbourhood Policy. Currently, National Framework Programme for 2011-2013 has been also elaborated, which provides for priority sectors for the development of the EU-Armenia bilateral relationships. Within the framework of this Programme it is expected to increase the capacities of law enforcement bodies to fight against corruption, ensure the effective implementation of the anti-corruption strategy and strengthen the administrative capacities, ensure the efficiency public finance management, including transparency of expenditures. 30-35 percent of the provided financial means (which comprise nearly EURO 47-55 million) has been allocated for ensuring the mentioned outcomes.

Within the framework of Eastern Partnership on 15 May 2012, the High Representative of the European Union for Foreign Affairs and Security Policy published Eastern Partnership Roadmap 2012-13 which consists of three parts: a joint message addressed to the European Parliament, the Council, the European Economic and Social Commission and the Regional Commission and Roadmap consisting of bilateral and multilateral formats. Within the framework of the priority sector "Democracy, efficient management and stability" an objective of fight against corruption has been formulated, in the scope of which it is intended to promote good management, fight against corruption and economic crimes, review the existing anti-corruption systems (within legislative, political and institutional frameworks, including law enforcement bodies), increase the knowledge of civil servants and civil society organisations on anti-corruption fight.

On 20 September 2011, 8 founder countries (Brazil, Indonesia, Mexico, Norway, Philippines, Southern America, the United Kingdom, and the United States of America) officially established **the Open Government Partnership**, declaring their intention of conducting transparent, accountable, effective governance. On 17 April 2012 the Republic of Armenia joined this statement and undertook a number of obligations, among which was fight against corruption.

Particularly, with the aim of increasing the effectiveness of the fight against corruption the Republic of Armenia has assumed an obligation to promote effective cooperation with law enforcement bodies and representatives of civil society, regularly hold discussions with civil society on the results of monitoring and research to assess the level and proliferation of corruption, as well as the impact of anti-corruption actions. The State has also undertaken the obligation of establishing a secretariat within Anti-Corruption Council.

## **5. Recommendations**

In order to implement an effective anti-corruption policy in the Republic of Armenia the following complex amendments should be carried out:

1. It is necessary to modify the institutional system of anti-corruption bodies. it is recommended to introduce a three-circuit model of anti-corruption body by the following structure:

- I. a Council of Fight against Corruption (or Anti-Corruption Council) The Council chaired by the Prime Minister of the Republic of Armenia is intended to be formed by the following composition: (a) members of the Government of the Republic of Armenia; (b) representatives of political forces represented in the National Assembly of the Republic of Armenia; (c) representatives of civil society. If necessary, other persons may also be involved in the activities of the Council, for example, the Chairperson of the Control Chamber of the Republic of Armenia, the Chairperson of the Court of Cassation of the Republic of Armenia, the Prosecutor General of the Republic of Armenia and so on. The Council ensures effective control over the implementation of anti-corruption policies in the highest political level.
- II. Secretariat<sup>35</sup>. The permanently functioning structure is formulated by the Government based on the principle of specialisation, within the framework of which independent experts are being involved in the activities of the structure by a competition procedure.
- III. Responsible bodies (bodies of executive power) implementing anti-corruption policy in up to seven targeted fields or spheres. The selection of fields may be based on the results of researches on proliferation of corruption, the volume and periodicity of state body-citizen contacts, as well as the requirements to improve public services.

2. In order to ensure effective cooperation of the Secretariat of the Council of Fight against

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<sup>35</sup> The name selected for the permanently functioning structure is conventional. The final name of the structure is subject to clarification conditioned also by the scope of powers given to that body.

Corruption and the responsible bodies implementing anti-corruption policy it is necessary to specify the functions of development, implementation, assessment of anti-corruption actions, referral of the mentioned processes, coordination and control of anti-corruption actions, as well as to identify the scope of powers and liability of law enforcement bodies. It is recommended to build cooperation of the mentioned bodies based on the following approaches:

- I. The responsible bodies implementing anti-corruption policy develop the sector programmes of anti-corruption actions, ensure the publication, public consultation, as well as proper implementation thereof.
  - II. The Secretariat coordinates the works of development of sector programmes of anti-corruption actions, summarises and evaluates the reports on the implementation of programmes.
  - III. The Council ensures effective control over the implementation of anti-corruption policy based on the reports submitted by the Secretariat.
3. Develop a clear mechanism for implementation of anti-corruption policy. It must be based on the following components:
- I. The specific causes for corruption in separate sectors and areas must be identified by the state administration bodies that are obliged to initiate and carry out sector-specific researches concerning the level, types and prevalence of corruption and corruption risks.
  - II. Development and full implementation of sector-specific anti-corruption action programmes shall be ensured by the bodies responsible for the sectors. The measures must reflect the actions aimed at fulfilment of international commitments undertaken by the Republic of Armenia and implementation of tasks assigned to the Republic of Armenia by international organisations. The actions provided for by measures must have guarantees for implementation, including the provision of resources and justification for the link between the implementation of an action and

- the outcome/impact.
- III. The responsible bodies shall, in the format defined, submit periodic reports on the implemented measures and the outcomes thereof to the Secretariat.
  - IV. Concurrent to the implementation of the measures the bodies responsible for anti-corruption policy shall arrange anti-corruption campaign, public awareness and periodic research, evaluations, including impact assessment of the programme on the level and prevalence of corruption. The responsible bodies shall also submit reports on the works performed in these areas to the Secretariat.
  - V. The Secretariat shall ensure the complete study of general corrupt practices and causes thereof. The Secretariat shall review the anti-corruption legislation, develop guidelines on the fight against corruption, provide methodological and other assistance to the bodies responsible for the sectors in the course of implementation of the measures, evaluations thereof and carrying out researches, coordinate the works concerning the development of sector-specific anti-corruption programmes and implementation of measures provided for thereby.
  - VI. In the course of performing its functions the Secretariat shall closely cooperate with the bodies, functioning in the Republic of Armenia, responsible for the prevention of corruption, ensuring full participation thereof in the process.
  - VII. Based on the overview of data received the Secretariat shall prepare and submit to the Anti-Corruption Council periodic progress reports on the implementation of the programmes, which shall be discussed at the sittings of the Council and receive adequate assessment.
  - VIII. The Council shall comprehensively manage the anti-corruption reform process, supervise implementation and assessment processes of the anti-corruption strategy.
4. Enhance the efficiency of disclosure, investigation, prosecution of corruption crimes. In this respect, it is recommended:
- I. To review corpus delicti of corruption, specify the scope and the list of corruption



- crimes.
- II. To review the jurisdiction of various investigation bodies taking into account the criteria in terms of subject and object. The investigation of particularly complex crimes may be reserved for the Special Investigation Service of the Republic of Armenia, which shall ensure independence and quality of the investigation of those cases, whereas simple crimes may be investigated by other investigative bodies.
  - III. To significantly enhance the quality and efficiency of prosecutorial oversight over lawfulness of preliminary investigation into the cases of corruption crime.
  - IV. To ensure the accountability and transparency of the activities of law enforcement bodies in investigation of corruption crimes.
5. To undertake other comprehensive and interrelated measures. In particular:
- I. To enhance institutional and other capacities of the existing preventive anti-corruption bodies, particularly, enhance the role and importance of the Ethics Commission for High-Ranking Officials.
  - II. To ensure proper interaction with regard to anti-corruption policy and effective formal cooperation between state bodies.
  - III. To ensure stable communication of anti-corruption bodies with the donor organisations and civil society organisations in the processes of carrying out anti-corruption measures.
  - IV. To ensure more publicity of anti-corruption measures and outcomes thereof, as well as by means of spreading of periodic information via means of mass media and internet resources.

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