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Executive Summary

In 2003, Armenia received a score of 3 on the scale from 0 (absolutely corrupted) to 10 (absolutely non-corrupted) of the Transparency International Corruption Perception Index, according to which it can be characterized as a highly corrupt country. Several other corruption-related surveys that have been conducted in Armenia in the last years revealed a high level of the large-scale administrative corruption, while the 2003 Presidential and parliamentary elections demonstrated clear evidences of widespread political corruption.

The existence of systemic corruption in Armenia can be explained both by past (Communist and pre-Communist) legacies and current difficulties of the transition to democratic governance and market economy. As a result, Armenian society lacks appropriate institutions and values, which could restrain corruption. To a large extent, high level of poverty, social inequality, inadequate use of nation's resources and deterioration of the moral values are seen as main consequences of corruption in the country.

Not much in-depth research on corruption has been conducted in Armenia. This study is a first attempt to assess how efficient is the Armenian National Integrity System (NIS). It discusses the size, structure and functions of all existing NIS institutes (pillars) and analyzes the factors hindering their effective functioning. The study also examines the anti-corruption measures taken by the Armenian Government and the donor assistance in the field of anti-corruption. Finally, it identifies priorities and develops recommendations aimed at strengthening transparency, accountability and institutional capacity of NIS pillars, which will eventually make them function effectively on a sustainable basis.

The major finding of the study is that none of the NIS pillars, as well as the NIS as a whole, function effectively in Armenia. Though since 1998 the Armenian National Assembly (Parliament) passed a large number of laws, which were supposed to have a positive effect on the functioning of the NIS, yet their implementation, at best, is inadequate and, at worst, results in exactly opposite outcomes to the expected ones. NIS pillars are weak because they become more and more susceptible to capture by special interest groups, which is caused by increasing concentration of political and economic power in hands of a small group of people and coalescence of big businesses and high-ranking party and state officials.

It has been shown that factors influencing the NIS functioning in Armenia can be categorized into two groups. The first group includes the factors having a systemic character, which affect the NIS system as a whole. The second category refers to the pillar-specific factors, which vary from one pillar to another and therefore have a limited systemic impact on the NIS. The key systemic factors are: the absence of political will, the lack of independence and autonomy of pillars, imperfect legal framework and poor law enforcement, the lack of administrative and human capacity, low level of public participation in policy decision-making, as well as historical and cultural aspects.

True political will implies not only the adoption of the National Anti-Corruption Program or the membership in numerous international networks and organizations, but also strong condemnation of corrupt practices and evident intolerance towards everyone's illegal and immoral behavior irrespective of his/her position and income. As indicated by the NIS study results, no serious steps have been undertaken by state authorities to punish senior officials for corrupt practices. Another indication of the absence of political will is the reluctance of Armenian state officials to provide access to information for media, NGOs or citizens.

The NIS study also reveals that all key institutions in Armenia lack real independence and autonomy. As a matter of fact, both the Legislature and Judiciary, along with other institutions, are heavily dependent on the institute of Presidency and the Executive. Thus,

there is no true separation of power or effective check-and-balance mechanism in the Armenian governance system.

A lot of legal deficiencies in the Armenian legislation contribute to the low efficiency of NIS pillars as well. Conflict of interests, gift giving and hospitality, donations to political parties and election funds, and other critical issues are not legally regulated. Poor law enforcement is another serious problem in Armenia.

Due to inadequate funding the country's key institutions lack necessary equipment and resources, normal working conditions and sufficient remuneration of their staff. All this also adversely affects the functioning of NIS pillars.

The level of public participation still remains low in Armenia. Ordinary people avoid joining political parties, NGOs or trade unions. Partly, this can be explained by the old Soviet stereotypes on political activism. On the other side, people still strongly believe that the things can be positively changed, if a "generous king" appears. In addition, the practices of public participation in Armenia, such as lobbying, advocacy, etc., are underdeveloped.

The long-lasting rule of foreign authoritarian and corrupt regimes, for example, Russian and Ottoman empires, contributed to the formation of rather high tolerance of the Armenian society to corruption. The loss of moral integrity of the nation during the last years of the Soviet period, serious irregularities in privatization and liberalization processes of the beginning of 1990s, as well as other developments in the modern history of Armenia, disappointed people and led to the spread of cynicism and frustration within the society.

It is difficult to specifically assess the effectiveness of the Government anti-corruption activities, as not much has been done in this field. Nevertheless, many experts and civil society activists are skeptical about true intentions of the Armenian authorities to fight corruption. Very controversial are the opinions concerning the results of the public sector reforms in Armenia. The absence of visible improvements in the living conditions of the most of Armenians make them distrustful about the government's initiatives. All this gives a solid ground to claim that the on-going reforms are donor-driven, and the current authorities are not truly committed to increase transparency and accountability of the governance system of Armenia.

One important reason of the failure of the reform process is that the donors promote their strategies and programs without taking into consideration the specifics of the institutional environment, within which they implement the reforms. Donors often fail to adequately assess the real needs and capacities of the sectors they assist. Some experts argue that there is no consensus among donors themselves on how to implement the reforms. The limited information about donors' assistance, instances of unprofessional or corrupt behavior of individual representatives of some international organizations, combined with the lack of transparency in resource allocation, negatively affect the public perception of foreign assistance.

Taking into account all mentioned above, it is critically important to reassess the past and current strategies and programs aimed at promoting transparency and accountability. Such reassessment will reveal the main reasons of the ineffectiveness of donor assistance. Another priority issue is ensuring cooperation and coordination among donors, which will be easier to achieve around specific activities. Lastly, the whole reform process should become much more transparent and accountable to the public.

Among the main recommendations of the NIS study is the evaluation of the political, economic, social and human costs of corruption in Armenia. The legislation and law enforcement need serious improvement. This is especially important to ensure the independence of NIS pillars from the Presidency and Executive. Strengthening institutional capacity is another key recommendation of the study. The level of public participation should be increased mainly through the civil society capacity building. The success of reform process is determined by a broad support of the population, which can be promoted by enhancing public awareness and education. All this should be reflected in the appropriate legal and policy documents, and, in the first place, National Anti-Corruption Strategy and its Action Plan.

Country Overview

Armenia is a small land-locked country in the South Caucasus. Its neighbours are Georgia in the north, Azerbaijan in the east and southwest, Iran in the south and Turkey in the west. The country's territory is about 30,000 square kilometres. Most part of Armenia lies higher than 1,000 meters above the sea level. The highest point is Mount Aragats (4,090 metres above the sea level), and the lowest point – village of Debedashen at the Armenian-Georgian border (395 metres above the sea level).

Being one of the Soviet Republics, Armenia regained its independence after the collapse of the USSR in the end of 1991. Armenia was among the founding members of the Commonwealth of Independent States (CIS), which includes 12 former Soviet Republics. It is also member of the UN, Collective Security Agreement (includes also Russia, Belarus, Kazakhstan, Kyrgyzstan, and Tadjikistan), Organization for Security and Cooperation in Europe (OSCE), Council of Europe (CoE), Black Sea Economic Cooperation and World Trade Organization.

Soon after gaining independence the country started suffering from a serious economic crisis caused by the transition from the planned-command economy to the market economy. The situation was aggravated by the conflict with Azerbaijan over Nagorno-Karabakh, a disputed Armenian-populated enclave on the territory of that neighbouring country. The war phase of the conflict lasted from 1992 to 1994, coinciding with the start of large-scale economic and political reforms.

One of negative consequences of the conflict was the blockade of railroads and highways imposed on Armenia by Azerbaijan and Turkey, the Azerbaijan's closest ally in the region. Armenian refugees from Azerbaijan also caused serious problems related with their housing and employment. All this resulted in a deep decline in country's output. According to IMF data, real GDP decreased by almost 50% between 1991 and 1993. Since 1994 the GDP went up, and it grew by 13.9% in 2003, according to official data provided by the National Statistical Service.

Armenia can be characterized as a semi-presidential republic. Formally, it meets three conditions of the semi-presidential system of governance: the President, who is the Head of the state (not of the Executive), is directly elected by popular vote; the Office of the President has significant de-jure and de-facto powers; and the Prime-Minister and the Government must get a vote of confidence from the National Assembly (NA) in order to perform its activities.

The first President of the country, Levon Ter-Petrossyan, was elected in November 1991, when the 1978 Constitution of the Armenian Soviet Socialist Republic was still in force. Only on July 5, 1995, a new Constitution of the independent Armenia was adopted through referenda. Levon Ter-Petrossyan was re-elected in September 1996, and in February 1998 he resigned. A month later, in March, the extraordinary Presidential elections were held in Armenia. The current President of Armenia, Robert Kocharyan, who was then the Prime Minister, was elected for the first time in March 1998 and re-elected in March 2003.

The Armenian Government is headed by the Prime Minister and consists of 14 ministries and 2 ministers without portfolio. There are also 11 agencies under the Government, which are also a part of the Executive. Until 2003 the Government members (ministers) were appointed by the President of the country.

The situation changed in 2003, when a new Government was formed as a result of a political bargain. A Memorandum was signed by three political parties who have the majority in the NA in order to form a coalition Government. The President also became a party to the Coalition Memorandum to appoint the Prime Minister and three Ministers (of Defense, Foreign Affairs and Justice).

The Memorandum defined how many Ministers should be represented by each political party of the Coalition and how the leadership positions in the National Assembly should be distributed among the parties. According to the Memorandum, the Ministers representing

each party are first of all accountable to their parties and can be dismissed only upon the agreement of the parties nominated them. Currently, in addition to three Ministers appointed by the President, six ministers represent the Republican Party, three – Armenian Revolutionary Federation Dashnaktsutyun and three - the Rule-of Law Country Party.

The NA of the Republic of Armenia is a unicameral body that consists of 131 members elected for the term of four years by direct and popular vote. The electoral system is a mix of proportional representation (party list) and majoritarian (one district – one member) systems. Today, there are 56 members of the NA elected on the majoritarian basis and 75 – on the proportional representation basis. Only those parties who received more than 5% of the votes for their electoral (party) lists won these 75 seats, proportional to the percentage of their votes received at the last NA elections in May 2003.

The NA has six permanent committees; each of them is headed by a Chairman and a Deputy Chairman.

As of December 2003, there are 49 registered parties in Armenia. The present NA has six factions (Republican Party of Armenia, Justice bloc, Rule-of-Law Country Party, Armenian Revolutionary Federation Dashnaktsutyun, National Accord Party and United Labor Party), and one group (People's Parliamentarian).

The Armenian Constitution attributes the right for a legislative initiative to both the Government and NA. The NA has the constitutional authority to approve the budget and oversee its implementation on a regular basis. The oversight is carried out by the Chamber of Control (CoC) of the NA.

The administrative-territorial units of the Republic of Armenia are Marzes (Provinces), which consist of village and town Communities. There are 10 Marzes and Yerevan, the capital of Armenia, which has the status of Marz, and about 930 Communities. There are no elective bodies at the Marz level. The Marzpets (Governors) are appointed by the Prime Minister, except the Mayor of Yerevan, who is appointed by the President. Marzpets appoint the staff of their offices (Marzpetarans) to implement the policies of the Central Government in regions. Though the Heads of the Community and members of the Elderly Councils (Avagani) are elective positions with the term of three years, the former can be dismissed by the Prime Minister upon the initiative of the Marzpet and/or the Avagani.

The Armenian legal system is based on a civil law (continental) system, though still with strong elements of the Communist legal system. According to the Constitution, the Judiciary includes the Constitutional Court (CC), three level courts of general jurisdiction (first instance courts, the review courts and the Appeal Court), the Economic Court, the Council of Justice and the prosecution. There is no jury system in Armenia.

All judges and the Prosecutor General, his Deputies and Heads of the structural sub-divisions of the Prosecution are nominated by the President of Armenia upon the recommendation of the Council of Justice, chaired by the President. Four members of the CC are also appointed by the President (without the recommendation from the Council of Justice). The only exception is that five (out of nine) members of the CC are nominated by the NA. One of the members of the CC is appointed as its Chairman (by the NA and in some cases by the President). The tenure for judges is 65 years and for the members of the CC is 70.

There is a single centralized police force in the country. The National Security Service mainly performs the intelligence functions. According to the Armenian Criminal Procedure Code the Prosecution, Police and National Security Service have the power to make a preliminary investigation, while only the Prosecution can initiate criminal prosecution on corruption cases.

There are no investigative/watchdog agencies in Armenia. On October 21, 2003, the NA passed the Law on Human Rights Defender (Ombudsman), entering into force in January 1, 2004.

On January 22, 2001, the Anti-Corruption Commission under the Prime Minister was established to coordinate government anti-corruption programs. The Commission headed by the Prime Minister consists of the NA Deputy Chairmen, Ministers of Justice, Finance,

Foreign Affairs, Heads of Police and National Security Services, as well as the Head of the Staff of President's Office.

On November 6, 2003, the Armenian Government approved the National Anti-Corruption Strategy Program and its Action Plan. A respective Government Decision was ratified by the President Robert Kocharyan on December 1, 2003.

There are 44 regularly published newspapers, 58 TV Companies (34 of them are regional) and 13 Radio Companies (5 of them are regional), as of December 2003. Almost all of them are privately owned. There are one national TV (Public TV) and one national Radio Company (Public Radio) that are funded by the state and considered as the official source of information. Among national newspapers, only *Hayastani Hanrapetutyun* daily and *Respublika Armenia* weekly are funded by the state.

Corruption Profile

Not much in-depth research on corruption-related issues has been done in Armenia. To certain point this is determined by the limited access to information. The absence of appropriate legislation, the lack of institutional capacity in the public sector, along with the improper attitude of state representatives, make the obtaining of almost any kind of official information difficult. Even statistical data can be hardly received from most state institutions. The state officials are given many opportunities to interpret the existing legislation arbitrarily, to ignore the requests, to provide with incomplete and uncertain answers, or to hide information (e.g. based on the argument of the need for secrecy).

In the meantime, there are several surveys concerning the public perception of corruption that have been conducted by various organizations during the last five years. However, public opinion surveys alone cannot measure the level and consequences of corruption, or the types of corruption most prevalent in the country.

The 1999 Transparency International (TI) Corruption Perception Index (CPI) ranked Armenia as 2.1 on the scale from 0 (absolutely corrupted) to 10 (absolutely non-corrupted), with a 76th position among 99 countries, which indicated high level of corruption. During 2000-2002, there were no three independent and identical surveys on corruption issues conducted in Armenia and thus the country was not included in the CPI. Only in 2003, Armenia appeared again in the CPI ranked as 3, still sharing the position (78-82) with a group of very corrupt countries[1].

In 1998-99, the Business Environment and Enterprise Performance Survey (BEEPS) was undertaken the EBRD and the World Bank aimed at measuring different forms of corruption as perceived by 3,000 enterprise managers in 22 transition countries including Armenia. The study revealed the influence of the state capture and administrative corruption on businesses. As indicated by the study results, the overall index of state capture for Armenia was only 7 on the scale from 0 (lowest) to 50 (highest)[2]. In the meantime, Armenia was shown to have one of the highest levels of administrative corruption, with the index of 4.6 on the scale from 0 (lowest) to 7 (highest)[3].

The results of the second BEEPS were reported at the CIS-7 Initiative Conference held on January 20-22, 2003 in Lucerne, Switzerland[4]. In the presentation findings were grouped for four sub-regions: CIS-7 countries (Armenia, Azerbaijan, Georgia, Kyrgyzstan, Moldova, Tajikistan and Uzbekistan), Central CIS countries (Belarus, Russia and Ukraine), the Balkans, and Central Europe and Baltic states. The comparison of the results of BEEPS-1999 and BEEPS-2002 revealed that both average index of administrative corruption and state capture for the group of CIS-7 states decreased from 3.5 to 2.2 and from 27 to 18, respectively.

Another survey, partly related to corruption, was carried out in 2001 by the Armenian Democratic Forum[5]. The goal of the survey "was to reveal public opinion on public services accessibility, quality as well as obstacles to their efficient operation."[6] The survey results pointed to the fact that the interviewed households thought that there is widespread corruption in Armenia. The overwhelming majority of respondents (71.9%) believed that corruption is an inseparable part of their life[7]. Nonetheless, more than 48% of respondents understood that corruption makes the poor poorer and the wealthy - wealthier[8].

In 2002, the Center for Regional Development/Transparency International Armenia (CRD/TI Armenia), in cooperation with the Civil Society Development Union and the Development Network, conducted a nationwide corruption assessment public opinion survey[9]. As indicated by the survey results, 80% of households, 79% of businesses and 84% of public officials considered corruption in Armenia as problematic, very problematic or extremely problematic[10]. The majority of respondents in all three categories mentioned that the levels of corruption in the past five years increased or increased significantly[11]. It should be said that 59.4% of households had a personal experience of involvement in corrupt transactions[12]. In the meantime, more than 69% of the households, 73.4% of the

businesses and 78% of public officials thought that corruption could be substantially reduced or limited in Armenia[13].

Types and Manifestations

Corruption in Armenia is mostly identified as bribery. In the 2002 CRD/TI Armenia survey, the majority of the surveyed households, businesses and public officials also mentioned abuse of power, unauthorized intervention in the activities of other institutions, rent seeking and use of public funds as forms of corruption[14].

The legal concept of corruption does not exist in Armenia. The Soviet Criminal Code, which was still in effect (after making various changes and amendments) until July 31, 2003, did not separate corruption as an individual group of criminal offences. Rather it defined it as various forms and put those crimes in different categories. Unfortunately, the new Criminal Code (enforced on August 1, 2003) has the same deficiency: corruption is not singled out as a specific group of criminal offences.[15] Among corruption-related crimes are: bribery, abuse of power, forgery, etc.

Average citizens normally face petty or "survival" corruption, while grand corruption is more difficult to disclose. The results of numerous public opinion surveys are one of existing indicators of the high level of administrative corruption. For example, the 2002 CRD/TI Armenia survey demonstrated that 10 out of 11 state institutions and 16 out of 30 services/sectors proposed for assessment were ranked by more than half of the respondents as corrupt[16]. The courts, prosecution, traffic police, tax and customs services, licensing and certification agencies, inspectorates, energy sector, etc., were perceived as the most corrupt areas. The 2001 survey of the Armenian Democratic Forum revealed very similar results: households consider as the most corrupted tax inspection (94.1%), courts (94%) and traffic police (89.4%), whereas businesses said that the most corrupt services are the Police (85.3%), the Office of the Prosecutor General (84.8%) and the courts (83%)[17].

Administrative corruption manifested itself in Armenia both in the form of "according-to-rule" and "against-the-rule" types[18]. The first form is when an official receives private gain for performing functions required by law, while the second one is typical for the situation when the official receives private gain for service, which he/she is prohibited to provide. The more is risk, the higher is the "payment".

One of the often-cited cases of grand administrative corruption was related with ArmenTel, a telecommunication monopoly in Armenia. ArmenTel's shares were initially divided between the Armenian Government and Trans-World Telecommunication (TWT) offshore company (51% vs. 49%). In December 1999, Greece's OTE bought 90% of stocks.

In February 1999, the former American executive in "ArmenTel" and chief of the Utah-based Anglia Consulting Company Robert Green said that Grigor Poghpatyan, the former Minister of Communication and other top officials received bribes of US$50,000,000 from TWT, and, particularly, US$10,000,000 for the ArmenTel sale. Poghpatyan rejected the corruption charges and demanded a public apology from Green, who apologized to the Minister, later saying that he had learnt about that from the former director general of ArmenTel Vahram Soghomonyan and the former vice president of finance Eric Arno Vigen who fled Armenia last year.

President Robert Kocharyan ordered an official inquiry into these allegations. Opposition initiated the establishment of ad-hoc commission of the NA to investigate the activities of the Government in the telecommunication sphere[19]. However, in both cases no findings have been made public. Neither have any follow-up measures been reported. Some may argue that this was the case of abuse of high office, which is usually seen as political corruption. However, there were no evidences of political gains for corrupt officials or political implications of that particular case.

As to political corruption, one of its classic forms is related to the electoral processes. Armenian citizens have been aware of this form of corruption since the 1995 NA elections. Vote buying; bribing the members of electoral commissions, observers and proxies;

"selling" seats in the NA by party leaders to their cronies or by one candidate to another are typical for political corruption associated with the electoral processes. More details about political corruption at the recent elections in Armenia are included in later sections of the report.

However, political corruption in Armenia is not limited by the elections only. Forms of political corruption are also defections of parliamentarians from one faction to another based on financial, rather than ideological motives; appointments to political and discretionary positions (ministers and deputy ministers, heads of governmental agencies and their deputies, Marzpets and their deputies, etc.) based on nepotism, cronyism or bribery, rather than merit.

There are no statistics on how many high level figures were prosecuted, as stated by appropriate state institutions. However, several senior politicians were accused after dismissal from office, which made people think that the main reason for this is political repression by the current authorities. Media and analysts see as the political use of corruption charges the accusation and arrest of the former Minister of Education Ashot Bleyan, who was affiliated with the former President Levon Ter-Petrossyan.

During the first round of 1998 Presidential elections Bleyan was one of the Presidential candidates and, according to the official results, received only 0.1% of votes. Before elections, he appealed to the CC questioning Robert Kocharyan's right to be a presidential candidate. The ground for that appeal was that Kocharyan did not meet the 10-year permanent residence requirement. At the second round, Bleyan and his party "Nor Ughi" supported the candidacy of Karen Demirchyan, the major opponent of Robert Kocharyan, then the Prime Minister. On May 14, 1999 he was arrested, accused as the head of the tender commission for falsifying the tender and the illegal transfer of $120,000 to one of the winners of the tender. On December 15, 2000, Bleyan was sentenced to 7-year imprisonment, with confiscation of 50% of his personal property. He repeatedly commented that the trial was a political one[20].

Another political case is related to Vano Siradeghyan, one of the most influential political leaders during Levon Ter-Petrossyan presidency and one of his closest allies since 1988. He was the Minister of Interior from 1993 till 1996, and then the Mayor of Yerevan until Levon Ter-Petrossyan resigned in early 1998.

Siradeghyan was first interrogated as a witness by the Prosecutor General on July 22, 1998, in connection with the case of Vahan Harutiunyan, former commander of the Interior Ministry troops, arrested in June on charges of murder and corruption. On January 31, 1999, Siradeghyan fled the country. When he returned on May 3, he was immediately arrested in the airport and taken into custody, then released on May 7. Soon after, on May 30, 1999, Siradeghyan was elected as a member of the NA.

A criminal case was filed against him in September 9, 1999, when he was charged with racketeering, plotting and taking part in premeditated murder, accepting bribes, and abusing power. Initially, he was not arrested due to the immunity as the parliamentarian. However, when later he was stripped of his immunity, the prosecution demanded his arrest on April 3, 2000. The very same day Vano Siradeghyan left the country and until now remains fugitive sought through the Interpol. He and his supporters are convinced that the case is politically motivated[21].

Another area is policy-related corruption. Its most common form is to affect various policy decisions and create favorable conditions for certain personal or/and businesses interest of senior state officials. Opposition parties and media claim that many high-level government officials (especially, the ministers) abuse their positions to be either directly (though unofficially) involved in the business activities or become an "umbrella" for other businesses. In both cases, this brings additional income. Naturally, those officials tend to influence law and decision-making processes in order to get more (sometimes, short-term) benefits for themselves or their "protégés".

For instance, in December 2001, the NA amended the Law on the Fixed Payments for Tobacco Production passed in 2000. The amendment increased the size of the fixed payment for the imported non-filter tipped cigarettes by 2 times (from $3 to $6 for 1,000

items). Meanwhile, the fixed payments for the same domestic product rose from $2.2 to $3. In its report, the State Commission on the Protection of Economic Competition mentioned, "…such privilege to the domestic producer of non-filter tipped cigarettes could have a negative impact on the competition environment"[22]. The Commission pointed to the fact that, currently, 91.62% of the market of the non-filter tipped cigarettes was covered by the domestic producer "Grand Tobacco". By adopting specific changes in the tax legislation, favorable conditions were created for further monopolization of the domestic market of the non-filter tipped cigarettes.

Causes and Consequences

High level of corruption in Armenia could be explained both by past legacies and current difficulties of transition. While corruption had existed in the country before Armenia gained independence, the emerging new economical-political system gave birth to new forms of corruption. A hierarchical and politicized government system does not provide the separation and decentralization of power or participatory decision-making. There are no check-and-balance mechanisms. Impunity of those in power is mainly determined by the fact that the Judiciary heavily depends on the Executive.

Most parliamentarians are affiliated with or represented by powerful political and economic elite groups. Political and economic interests are interwoven. Conflict around Nagorno-Karabakh gave some privileges to the military, which are used for arbitrary and uncontrolled allocation of state resources, coercive political actions, etc. Imperfect legislation, poor law enforcement and old mentality of bureaucrats do not ensure transparency and accountability and thus lower risk of corruption.

Weak political parties, with insufficient funding, do not guarantee a real political competition. Nor can the private sector, with the privileged elite and unprotected small and medium businesses, ensure promotion of a free and competitive market. The lack of capacity and integrity within civil society organizations makes them unable to effectively demand more transparency and accountability from the authorities.

Most media do not consistently follow up on anti-corruption developments. Citizens do not trust the state. General mistrust in the state, unfavorable economic situation and unsolved social problems lead to the situation when people mostly adopt a "survival" behavior. They tolerate corruption pursuing short-term economic gains rather than thinking about the damage that it makes to the country.

In summary, the lack of appropriate institutions and values leaves more room for corruption. On the other hand, building and developing new institutions and values create new opportunities for corrupt practices. This vicious cycle damages the country's development, as it hinders ongoing political, economic and social reforms. Uncontrolled and systemic corruption is harmful for Armenia. As in many countries, it "…exacerbates income disparities…saps the poorest…provokes human rights violations, forces movements of people within and outside of national borders…destroys natural environments and the possibilities for good governance"[23].

Corruption hampers domestic and foreign investment, restricts trade, distorts the size and composition of government expenditure, strengthens the underground economy, increases social inequality, etc. Public opinion surveys demonstrate that the majority of population of Armenia understands that corruption increases poverty and crime, thwarts development, and deteriorates moral values of the nation[24].

The National Integrity System

Executive

The 1995 Constitution vests a considerable power to the President of the country who is head of the state, Commander in Chief of the armed forces, Chairman of the Council of Justice and a guarantor of the independence, territorial integrity and security of the country. According to Article 55 of the Constitution, the President of Armenia has the following powers:

- To sign and promulgate laws passed by the NA;
- To dissolve the NA and designate special elections;
- To appoint and remove the Prime Minister, as well as the members of the Government, upon the recommendation of the Prime Minister, accept resignation of the Government in the event of a vote of no confidence against it and appoint a new Prime Minister and form a new Government;
- To appoint and recall the diplomatic representatives;
- To appoint and remove the Prosecutor General, upon the recommendation of the Prime Minister;
- To appoint and remove members of the CC or sanction their arrests;
- To appoint, remove and sanction the arrest of Chairman and judges of the Court of Appeals and its Chambers; the courts of review, first instance and other courts;
- To appoint and remove the Deputy of the Prosecutor General and prosecutors heading the subdivisions of the Office of the Prosecutor General;
- To appoint the high rank staff of the armed forces;
- To grant citizenship and decide on the granting of political asylum;
- To grant pardons to convinced individuals, etc.

Though there are no special legal provisions concerning immunity of the President, the Constitution (see Article 57) states that he/she may be removed from the office in the case of a state treason or other aggravated crimes. To determine any question related to the removal of the President, the NA must appeal to the CC with a decision adopted by the majority of its members. A decision on removal must be made by a minimum two third majority vote of the total number of the NA members, upon the CC determination. Article 58 of the Armenian Constitution stipulates that the acceptance of resignation of the President of Armenia shall be determined by a majority of the total number of the NA members.

As stipulated in Article 85 of the Constitution and other legal acts such as the Presidential Decree #1064[25], it is the Government that has executive power in Armenia. The organization and rules of operation of the Government shall be determined by a Presidential Decree, upon the recommendation of the Prime Minister. The current composition of the Government[26], is presented below:

- Prime Minister;
- Ministry of Health;
- Ministry of Trade and Economic Development;
- Ministry of Justice;

- Ministry of Foreign Affairs;
- Ministry of Environment;
- Ministry of Agriculture;
- Ministry of Energy;
- Ministry of Education and Science;
- Ministry of Culture and Youth Affairs;
- Ministry of Defense;
- Ministry of Social Security;
- Ministry of Transportation and Communication;
- Ministry of Urban Development;
- Ministry of Finance and Economy;
- Minister of Coordination of Territorial Administration and Operation of Infrastructures;
- Minister, Head of Staff of the Government.

The positions of the President, the Prime Minister and Ministers are considered as political. According to Article 3 of the Law on Civil Service, political positions are subject to change with the change of configuration of political forces. Political positions can be elected (such as the President, members of the NA and the Heads of Communities) or appointed (such as the Prime Minister and Ministers). Meanwhile, the appointed positions of the Head of the President Staff, the Head of the Government Staff, Deputy Ministers, Marzpets and the Yerevan Mayor, Deputy Marzpets, as well as the Heads of the state institutions under the Government, are discretionary ones, which may be changed with the changes of political configuration. Advisors, press secretaries and assistants to the abovementioned political and discretionary positions are also seen as discretionary ones.

According to Article 87 of the Armenian Constitution, it is the Prime Minister who is authorized to oversee the Government regular activities and coordinate the Ministers' activities. The Government carries out its functions through its staff and various commissions. Executive bodies of the Government are Ministries, agencies and inspectorates operating within the structure of the Ministry. Agencies and inspectorates may have territorial sub-divisions.

As mentioned in the Presidential Decree #1063[27], the following eleven state institutions also function under the Government of Armenia: the National Security Service; State Committee on Real Estate Cadastre; Department on Emergency Situations; State Tax Service; State Customs Committee; Department of Migration and Refugees; Police; Department of Management of State Property; State Committee on Water Management; State Committee on Physical Culture and Sports; and Department of Civil Aviation.

As envisaged by Article 86 of the Constitution as well as other relevant legal acts[28], the Government meetings shall be chaired by the President of the country, or upon his/her recommendations, by the Prime Minister. the Head of the Government Staff (who is currently a Minister without portfolio and a member of the Government), along with the General Prosecutor, the Mayor of Yerevan City and Marzpets, may also participate at the Government meetings, with a deliberate vote. The Prime Minister, who proposes the Government Decisions, can invite other participants to ask for their opinion on the discussed issues. All Government Decisions should be adopted by the majority of the Members of the Government, signed by the Prime Minister and approved by the President. Thus, the President actually controls every single Government Decision, since there are no legal provisions regulating the cases of disagreement between the President and the Prime Minister or the Government.

The Government of Armenia performs the following duties (see Article 89 of the Constitution): submitting its program, draft state budget and financial reports on the

budget implementation for the NA approval; management of state property; ensuring of the implementation of unified state policies in the areas of finances, economy, taxation, loans, credits, defense, national security, foreign affairs, science, education, culture, health, social security, and environmental protection; taking measures to protect the rights and freedoms of citizens, property and public order.

The Government is a main policy making institution in Armenia. It closely works with civil servants and employees of other state institutions who are implementing the state policy in various sectors. A main policy document then is the Government program in a form of annual activity plan split into quarterly sub-plans (see the Presidential Decree #1064, March 16, 2002). Another important document is the annual state budget that is subject for the NA approval, together with financial reports on the budget execution (see Articles 89-90 of the Constitution).

The Government functions also takes a legislative initiative, since the Constitution vests legislative power to the former as well (see Article 75). This provision is restated in Article 47 of the NA Procedures. The NA shall debate and vote on any draft decision, which is considered by the Government as urgent, within one month period. All draft legislation reducing state revenues or increasing state expenditures shall be considered by the NA only upon the agreement of the Government. Moreover, the Government may raise the issue of a vote of confidence related to the proposed legislation, and if the NA does not adopt a vote of confidence against the former, then the legislation will be considered as passed.

There are formal provisions requiring the presidential candidates to submit their and their relatives' declarations of income and assets for the last year to the Central Electoral Commission (see Articles 67 and 68 of the 1999 Electoral Code). The law adopted in 2001 regulated the declaration of incomes and assets of high-level state officials and their close relatives. According to the Law, the President of the country, Prime Minister, Ministers, and another high political, discretionary, civil service and other positions are subject to these regulations and shall submit declarations even after removing from the office within five years, whereas their relatives (spouses, parents, children, sisters and brothers) shall do the same within two years (see Article 2). The Order #02/1996 of the Ministry of State Property, December 18, 2001; and the Government Decisions #1067, November 5, 2001, #1289, December 27, 2001, #304, April 1, 2002, and #178, February 13, 2003, as well as other legal acts provided with the more detailed procedures on how to declare income and assets of high state officials.

Articles 5 and 6 of the 2001 Law stipulated that the annual declarations are to be submitted to the Ministry of State Revenues (currently, tax authorities) no later than February 1 of the subsequent year. All declarations were to be published in "*Official Bulletin*" from April 1 till June 1 of the same year (see the Government Decision #304, April 1, 2002, and Article 6 of the Law on Declaration of Incomes and Assets of High State Officials). Meanwhile, Article 6 stated that information considered as state or official secret shall not be declared.

As Article 8 of the Law on Declaration of Incomes and Assets of High State Officials defines, those state official who do not submit their declarations shall pay a fine equal fifty times of the minimum salary (1,000 AMD or less than $2). If they do not submit the declarations within thirty days after being fined, then the fine will go up to two hundred times of the minimum salary. Hiding the requested information or providing with the wrong information is subject to the fine equal to fifty times of the minimum salary. If this happens twice a year, then the state official shall pay two hundred times of the minimum salary. Interestingly, fines are imposed by the Ministry of State Revenues (currently, tax authorities), high officials of which are also subject to the same declaration of income and assets. The authorized body should review and verify the submitted data with other state institutions, local government bodies, as well as trade and non-trade organizations (see Article 9 of the Law on Declaration of Incomes and Assets of High State Officials).

The Law on Amendments to the Law on Declaration of Incomes and Assets of High-level State Officials, adopted in December 2002 and enforced from January 17, 2003, added a number of new positions to the list of those subject to disclosure of assets and income and

extended the deadline of submission of declarations until March 15 (see Articles 1 and 3, respectively). Amendments removed the requirement to publish declarations in "Official Bulletin". Instead, tax authorities shall provide declaration-related information upon request of media representatives (see Article 4). In some experts' opinion, this was a serious step back in ensuring public access to information, since it made the public fully dependant on media willingness to consistently follow-up on this issue.

Thus, only declarations of respective state officials for the year of 2001 have been published in four volumes of the "*Official Bulletin*". However, according to the unofficial sources of information, they have neither been sent to the bookstores, nor to the subscribers, though have been disseminated to some state institutions. The management of "*Official Bulletin*" was selling the publication for 90,000 AMD (about US$155), which was not affordable for the average citizens or NGO representatives. Nor this information was published in the newspapers and posted on the Government or other official websites. As reported by media[29], out of total 70,000 state officials only 45,437 had submitted the declarations in 2002. Administrative fines were imposed on those who did not declare their income and assets. So far, 548 officials paid 50,000 AMD (about US$86) each. No information was available on how many of them are members of the Executive.

In its editorial "Fantastic Declarations", *Aravot* daily points out that while reviewing the submitted declarations, one may conclude that all high officials have so low income that they survive only with help of their wealthy relatives[30]. Presumably, the main income and assets of the state officials are registered as owned by their relatives in order to hide actual high incomes. Another issue raised by the newspaper is that symbolic fines seem to be a simple and cheap way to avoid declaring true assets and incomes, since the law does not envisage other, more serious, penalties.

Obviously, the appropriate authorities do not take serious steps in reviewing the declared income and assets. Neither did they start any follow-up investigation on the cases covered by media. For example, from February 2002 till November 2003, *Aravot* daily published a series of articles containing information on certain senior officials who owe luxury apartments or private houses. Claiming that it is hard to buy or build such property relying on a salary from the state budget, journalists raise an issue of the true source of income of those officials. None of the provided facts were officially commented.

Armenia is a small country where people know each other through relatives, friends, classmates, colleagues, etc. That is why it is almost impossible to hide who are real owners of luxury houses or cars, hotels, restaurants, casinos, etc. If average people can judge about income and assets of senior officials and their close relatives, then appropriate state institutions do not lack evidences to start investigation. However, there is no political will to take decisive measures in this direction.

Conflicts of interest rules for the high executive officials (The Prime Minister, Ministers, Heads of Services, Agencies and Committees, their Deputies, Marzpets and Deputy Marzpets, etc.) are traditionally ignored despite the existence of some legal provisions. For example, Article 88 of the Constitution states that a member of the Government should not be a member of any representative body, holds any other public office, or to be paid for any other job.

However, it is a common practice in Armenia when members of the Government have their own businesses or patron businesses and thus act to protect and promote appropriate economic interests. Often, they obviously demonstrate a preferential treatment to their relatives and friends or business partners in the case of state contracting or bidding. Nobody is used to disclose his/her interest officially, though tends to show it unofficially to influence an appropriate decision. Media repeatedly reports that rent seeking, cronyism and nepotism[31] still prevail within the Executive, but there are no control mechanisms to prevent such practices.

As to the post-employment regulations concerning the members of the Government, there are not any provided by the current legislation, and, as a result, many former Ministers moved to profit and/or non-profit organizations that currently benefit from information they posses and personal contacts they have within the current Executive.

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

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

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

The Government is accountable to the President and the Prime Minister. The Ministries and other executive bodies of the Government can be approached by the control and review services under the President Office and the Government, similar services functioning within the Ministries, and so on. The President can also form ad-hoc review and control commissions (groups). These review and control functions are executed by the state institutions or their representatives that are subordinate to and/or dependent from the Executive, so this practice excludes impartiality.

As to the administrative checks and balances on decisions of individual members of the Executive, then the latter is accountable to their direct supervisors. Therefore, complaints go to supervisors of those public officials whose decisions or actions are questioned. However, as some experts note, no single decision can be made by a public official without a preliminary verbal or written approval of his/her supervisor. For this reason, this mechanism is actually fictitious.

The NA, along with the CoC, can review the Government activities, too. Individual members of the Government can be also asked various "hard" questions at the special NA sessions. Several special ad-hoc commissions were formed in the NA in order to examine cases related to administrative or legal violations within the Government. This is normally an "initiative" of the opposition members of the NA who had not enough power to follow-up on the conclusions of the commissions.

For example, on June 10, 1998 the NA established an ad-hoc commission for the investigation of how efficiently have been used the loans and credits received by Armenia from foreign and international organizations[32]. An 8-member commission had to work for 6 months and report about its findings. There is no information available about the implications of the findings of that commission. Five years later, on September 10, 2003, the NA formed a new ad-hoc commission on the same issue, which will complete its tasks by October 1, 2004[33].

According to the report of another ad-hoc commission[34], corruption and inefficiency in the energy sector has cost Armenia $200 million of financial losses[35]. The NA approved the report (see the NA Decision #092-2, June 14, 2000) and obliged the Government and the Office of Prosecutor General to report back about the follow-up measures related to the conclusions of the commission. On October 25, 2000, Boris Nazaryan, Prosecutor General, told the parliamentarians that the findings of the commission were accurate and four criminal cases were brought against 11 officials of the energy sector[36].

However, the situation has not been much changed - by the end of 2001, it was revealed that the electricity utilities collected only $120 million, whereas Armenia at that time was

generating $180 million worth of electricity[37]. The resulting huge loss in $60 million was again blamed on corruption and inefficiency of the energy sector management. Later, on December 18, 2002, some top energy officials were arrested for the inefficient use of EBRD loan for the construction of the Unit 5 of the Hrazdan Thermal Power Plant[38]. Today, energy sector is still said to be one of the most corrupt sectors of Armenian economy.

As to citizens, they can apply to supervisors of those Executive officials whose decisions they want to challenge, as well as to the Government, Prime Minister and President Offices, and other state institutions. Citizens' complaint mechanisms are very ineffective because of the existence of bureaucratic chain of command in state institutions and low responsiveness of public officials. Formally, citizens can also sue the Government for infringement of their civil rights (see Article 38 of the Constitution). In the meantime, citizens of Armenia cannot apply to the CC in the cases of violation of their constitutional rights by the Executive.

In fact, some individuals and legal entities happened to sue the Government, but with no success. Most people are simply afraid of possible repressions afterwards. Nobody trusts the Judiciary realizing its dependence from those whom he/she is going to sue and considering that institution as very corrupt. As indicated by the results of public opinion survey conducted in 2002[39], only 7% of households and 0.2% of businessmen would officially or anonymously report to respective authorities when asked to give bribes.

Formally, everyone in Armenia is entitled to freedom of speech, including the freedom to seek, receive and disseminate information and ideas through any medium of information, as stated in Article 24 of the Constitution. Access to information/documents from the state authorities was regulated by the Law on Citizens' Suggestions, Applications and Complaints until the Law on Freedom of Information was passed in 2003.

Also, Article 6 of the Constitution states that all laws enter into force only after their publication. Similarly, Articles 48-58 of the Law on Legal Acts (adopted in 2002) provide that almost all legal acts (such as laws, Decrees of the President, Decisions of the Prime Minister and the Government, etc.) must be published. Article 59 and 60 make an exception for those acts that possess state secret and are considered as individual and internal.

The main official sources of information are "*Official Bulletin*" and "*Bulletin of Departmental Normative Acts*" that are published on a regular basis and can be subscribed, bought or red in the public libraries. There are official websites of the President, the Government and other state institutions containing relevant information, though these sources are not always complete and updated. Also, there are "IRTEK" and other legal bases (developed and maintained by private companies), though they are not considered an official source of information.

In the meantime, the Armenian legislation makes possible to hide information requested from the state institutions because of its secrecy. The representatives of state institutions often use this as an excuse for not providing the requested information. Actually, access to information/documents to be obtained from the Armenian Government is quite limited.

Inquiry or complaint letters usually reach not the President and the Government members, but their appropriate staff who is in charge of public relations. Ignored, delayed or ambiguous answers or letters from the Presidential or Government staff are commonplace in Armenia. Uncertainty of most laws and regulations related to public access to information, combined with the lack of respective knowledge of applying persons or organizations let those state officials make arbitrary decisions on how to answer or if to answer at all.

Very few people and organizations appeal to the courts while being ignored or mistreated by officials on behalf of the Government. Not only the legislation matters here, but also the lack of client-oriented approach and professional commitment among the staff of state institutions. Corrupt behavior also plays a significant role - information they have available can be "sold" or shared in return for other favors or services.

The Center for Freedom of Information of the Association of Investigative Journalists developed and published the 2001-2003 "black lists" of those state officials who violated

the citizens' rights to obtain information by not providing the requested information[40]. When looked through the lists, one would find there most of the members of the Government.

Some legal acts such as the Law on Urban Development, the Law on Budgetary System, the Law on NA Procedures, the Law on the CoC, and others require not only providing public access to information in the fields they regulate, but, in some cases, ensuring public hearings and discussions and civil society participation in the executive decision-making. While the NA sessions, where the Government program and the state budget are being discussed, are broadly covered by most TV and Radio stations, and print media, then public participation in the budgetary process is not ensured at all. No public hearings and discussions are carried out on a regular basis.

Neither can the public participate in the executive decision-making concerning other issues. The Government meetings are normally broadcasted and covered by journalists, though in a concise and not always consistently. Usually, the public is informed about decisions that have been already made. As to representatives of civil society in various Commissions and Advisory Councils, affiliated to the President, the Prime Minister and other executive bodies, their voice is normally not heard (if raised at all). In summary, the Executive is a very closed institution that normally does not welcome public participation, though civil society representatives should partially share the responsibility for such a lack of cooperation.

Legislature

Article 62 of the Armenian Constitution vests the legislative power to the NA. According to Article 63 of the Constitution, the NA elections are held every four years within 60 days before the termination of the power of the previous convocation that takes place in June. Article 64 defines that any citizen over the age 25 having voting rights, being the Armenian citizen and permanently residing in the country during the last 5 years prior to the elections, can be elected as the NA member. The Armenian Constitution and Electoral Code adopted in 1999 determine the size and composition of the NA. Currently, there are 75 proportional and 56 majoritarian seats (out of total 131) in the new NA elected on May 25, 2003.

The leadership of the NA consists of the Chairman and two Vice-Chairmen. They are elected from the NA members for the whole period of the current convocation. As envisaged in Article 79 of the Constitution, the Chairman is responsible for chairing the NA sessions, managing the NA material and financial resources and ensuring the NA regular functioning.

75 seats are correspondingly distributed among all parties received more than 5% of votes on a proportional basis, whereas the remaining 56 seats are filled by those candidates who were elected by the majoritarian vote (see Article 95 of the Electoral Code). Majoritarian candidates can proposed either by a party or civic initiative group.

In the 2003 NA elections, only 6 parties and blocs received more than 5% of votes. These are the following parties: the Republican Party (about 23.6%), the Justice bloc (13.8%), the Rule of Law Party (12.5%), the Armenian Revolutionary Federation Dashnaktsutyun (11.5%), the National Accord Party (8.9%) and the United Labor Party (5.7%)[41]. Therefore, the abovementioned parties received 75 seats according to the percentage of their votes. Since other parties participated in the elections could not reach a 5% barrier, the remaining vacant seats were also redistributed among the winner parties.

The basic political units of the Parliament are the factions and groups (see Articles 14 and 15 of the Law on NA Procedures, respectively). The factions are formed during the first (opening) session of a new NA based on the results of the proportional list of the elections. Only representatives of those parties that received more than 5% of votes can form factions. Those NA members, who were elected by the majoritarian vote, no matter as an individual or party candidate, can voluntarily join any faction. Factions are represented in the permanent committees in the same proportions as their proportion is among the total

number of NA members. This ensures adequate political composition of all permanent committees.

Parliamentary groups can be formed any time during the NA sessions by 10 and more NA members based on the joint declaration to be submitted to the NA Chairman. The group can be dissolved either by its decision or automatically, when the number of its members decreases to less than 10. Basically, factions are party groupings, while groups can consist of both party and non-party members of the NA.

As mentioned in Article 69 of the Constitution, regular sessions of the NA are held twice a year – a spring session, which starts in February and ends in June, and a fall session (from September to December). The floor meetings during the sessions are held every two weeks. Sessions are open, except when the NA can decide that the session should be close-door as per request of the President, or any permanent committee or individual member of the NA. Extraordinary sessions can be held by the Presidential Decree based on the request of the Government or the petition of at least one third of the NA members and cannot last more than six days (see Article 70 of the Constitution). Upon the request of the Government or the petition of at least one third of the NA members, the NA Chairman convenes a one-day extraordinary meeting.

The Constitution also stipulates the functioning of the NA permanent committees and ad-hoc commissions (see Article 73). 6 permanent committees (on state-legal; finances, loans, budgetary and economic; foreign relations; science, education, culture and youth; defense, national security and internal affairs; and social, health and environmental issues) are established for the preliminary discussion of the draft laws and decisions as well as the submission of appropriate conclusions to the NA (Article 21 of the 2002 Law on the NA Regulations). Meanwhile, the ad-hoc commissions are formed for discussing particular legal drafts or gathering information and making conclusions on certain issues. The committee chairmen are elected by the NA, and the deputy chairmen - by the members of the committees among themselves. The NA committees can organize public hearings on the issues of national and international importance and invite high-level officials and experts for participation.

Article 55 of the Constitution (signing or vetoing laws and dissolving the NA by the President), 57 (impeaching the President), 58 (accepting the President's resignation), 59 (deciding on the impossibility of the President to carry out his/her functions) and 60 (regulating the situation after the President's office is vacated) legalize relationships between the NA and the President of Armenia. The submission of the Government program and the state budget for the NA approval as well as the procedures of the state budget approval are envisaged by Articles 89 and 90 to regulate relationships between the NA and the Government. Articles 99 (appointing 5 out of 9 members of the Constitutional Court by the NA) and 101 (appealing to the Constitutional Court by at least one third of the NA members) concern relations between the NA and the Judiciary. Articles 111 and 112 correspondingly define the NA role in holding constitutional referenda and referenda on passing laws.

Article 76 of the Constitution of the Republic of Armenia provides that the NA approves the state budget upon the presentation of the Government program. Article 77 of the Constitution empowers the NA to oversee the implementation of the state budget and control it through the CoC. More details about the CoC are presented in the Supreme Audit Institution section. Paragraph 1 of Article 79 of the Law on the NA Procedures reasserts the provision of Article 76 of the Constitution, while Paragraph 1 of Article 87 of the same Law confirms the power of the NA to control the implementation of the state budget.

Though formal provisions are followed, yet the watchdog role of the NA is very weak because of the dominance of the executive branches of the government over the legislative one. Since July 1995, when the current legal-constitutional system was established in Armenia, there have been no incidences of a no-confidence vote to the Government or a disapproval of the Government programs. Normally, the NA approves the programs submitted by the Government with no serious and well-structured discussions. The situation is not much different with regard to the NA power to approve the state budget.

Though there have been some instances of the prolonged budget-related debates, the NA has never disapproved a single budget proposal[42].

Article 65 of the Armenian Constitution provides that the parliamentarian cannot hold any other governmental office or perform any paid job, except the work that has scientific, pedagogical or creative character. This provision is reinstated in Clause 7 of Article 8 of the Law on the NA Procedures. Formal provisions are followed regarding positions in the Government, governmental agencies, and those of Marzpets. Nevertheless, many NA members are representatives of big businesses.

As reported by media, business representatives are increasingly involving into politics. The Association of Investigative Journalists provides with some statistics regarding the number of the NA members representing business monopolists[43]. The usual practice in Armenia is that after being elected to NA, these businessmen *de jure* resign from the executive positions they hold in their companies, but remain chairmen of the boards and still own the majority of the shares of their companies. Thus, *de facto* they are performing the same tasks, as before being elected. And there is no control over this issue.

As envisaged by Article 100 and 106 of the Electoral Code, all NA candidates should declare their income and assets and submit them to the Central Electoral Commission. The same Law on Declaration of Incomes and Assets of High State Officials, mentioned in the previous chapter, and all other related legal acts also apply to the members of the NA, who shall submit declarations even after removing from the office within five years, whereas their relatives (spouses, parents, children, sisters and brothers) shall do the same within two years. Their annual declarations should also be submitted to the tax authorities no later than March 15 of the subsequent year. The same fines are imposed on those members of the NA, who do not submit declarations.

Media reported that administrative fines were imposed on the state officials who did not declare their income and assets though no information is available on how many members of the NA were among those officials[44].

There are no restrictions on post-legislature employment for the members of the NA. In practice, the former NA members occupy any position. Neither there are no specific legal regulations concerning gifts. The same Government Decision #48, February 17, 1993, also applies to the NA members. It stipulates that the taken gifts are subject to submission to the respective state institutions if they cost five times more than the official's monthly salary. To keep the gifts, the official shall pay the balance between the market price of the gift and his/her fivefold monthly salary. According to Article 166.1 of the Code on Administrative Violations, if public officials do not transfer to the state costly gifts presented to them, then they will be fined by the amount equal to their minimum salary.

The NA Administrative Department maintains registers of gifts received by the individual NA members or the NA delegations from other countries during their official visits to Armenia or when they are hosting the Armenian NA delegations in their countries. Other types of gifts received by parliamentarians are not registered. Traditionally, in Armenia giving and accepting gifts and hospitality is widespread among high-ranking state officials, including members of the NA.

Mass media widely covers the NA sessions, especially through the state-owned publications and channels such as *Hayastani Hanrapetutyun* daily, Public TV and Public Radio Stations give detailed reports on the floor debates. All laws and decisions passed by the NA are published in the "*Official Bulletin*" normally issued twice a month starting from January 1997 (earlier the NA laws and decisions were published in the "*NA Bulletin"* issued twice a month). Today, the NA has its official website (www.parliament.am) in 3 languages – Armenian, English and Russian that contains information on relevant news and events, biodata of the NA members, composition of factions, groups and permanent committees, as well as the adopted laws and decisions.

Despite of all the noted above, the actual access of the average citizens and civil society groups to specific information they are interested in is as limited in the NA as in most state institutions. Such a limitation is determined by various factors such as imperfect legislation, the poor law enforcement, the absence of customer-oriented approach, the lack

of technical and human capacity, etc. The access to information/documents from the NA is currently regulated by the Law on Freedom of Information and some provisions of the Law on the Public Service of the NA Staff (2002).

The NA has no practice of regular public hearings and involvement of academicians, independent experts, and NGOs in the law-making processes, as stipulated by the Law on the NA Procedures, though some cases of cooperation are recorded. Basically, the civil society participation is limited to the occasional participation at the public hearings, rare cooperation in drafting laws, and some lobbying activities initiated by interested groups and NGOs.

Some experts and media explain the absence of participatory mechanisms in the lawmaking processes by actual subordination of the NA to the Executive that has even more legislative power in Armenia than the former. According to Articles 75 of the Armenian Constitution, only the NA and the Government are authorized to take a legislative initiative. However, though it is the NA that decides whether to pass the bills proposed by the Government or not, it usually makes a positive decision, with minor changes and amendments to the proposals. In public opinion, the NA frequently acts as a rubber stamp for the bills proposed by the Armenian Government.

The statistics of the recent years clearly demonstrated that the vast majority of the passed bills were proposed by the Government. During the period of September 1999 to May 2003, the NA of the previous convocation managed to pass 540 laws, among which 412 were the Government bills and only 128 of those initiated by the NA members. Moreover, 82 out of the abovementioned 128 were proposed by the ruling faction representing the Government[45].

Political Parties

First political parties were formed in Armenia in 1880s, with the major goal to liberate the country. The Ramkavar (Azatakan) Party was established in 1885; the Social-Democratic Hnchak Party - in 1887; and the Armenian Revolutionary Federation Dashnaktsutyun (ARFD) - in 1890. The first party adopted the liberal-democratic ideology, and the last two – social-democratic ones. In 1900s, the Armenian Bolsheviks established in Eastern Armenia, which was at that time under the rule of Russian Empire, while the western part was under the Ottoman Empire.

In 1918-1920, during the brief period of independence (known as the First Republic), there was a multi-party democratic system and the government formed by the ARFD that won the Parliamentary elections. After the sovietization of Armenia in November-December 1920, all parties were banned except the Communist Party. In 1990, the Ramkavar, Hnchak and Dashnaktsutyun parties returned back from emigration and re-established their structures in Armenia.

Nowadays, Article 25 of the Armenian Constitution guarantees freedom of the citizens' association and their right to establish or join political parties. However, this can be limited for those citizens who serve in the military forces or law enforcement bodies. The Law on Parties passed in 2002 regulates the activities of political parties (including the party funding), while the Electoral Code concerns the pre-election campaigns of the parties (including the campaign funding). The Ministry of Justice is authorized to deny the registration of a party if its charter or program contradicts to the Armenian legislation (see Articles 13 and 14 of the Law on Political Parties).

In general, the party system in Armenia is fragmented and underdeveloped. As of February 2003, 114 parties were officially registered in the country[46]. After re-registration, required by Article 33 of the 2002 Law on Parties, the number of parties became 49 in December 2003[47]. According to the 2003 Parliamentary Elections Guide published by the Caucasus Media Institute, among all the parties participating in the elections, the largest was the Communist Party of Armenia (about 50,000 members), and the smallest – the National Democratic Party (250 members).

Today, political parties are not very popular among the average citizens of Armenia. During the recent NA elections, various opinion polls were conducted to measure the level of popularity of participating political parties. The Center for Democracy and Peace that carried out the public opinion survey in March-April 2003, together with the Armenian Association of Women with University Education, reported that 50.6% of respondents did not trust political parties as opposed to 30% who trust them "partially" or "completely"[48]. Only 15.2% of the surveyed individuals mentioned that there were some parties that performed in accordance with their programs, and 40% had difficulties to answer to the question. In the meantime, when voted, 50.4% vs. 34% of the interviewees did not consider the party affiliation of the candidates at all.

On May 23, 2003, 21 parties and blocs contested the recent NA elections. According to the reports of local and international observers, and media, the elections were marred by serious irregularities, especially during the vote counting process. The election results were widely disputed by the opposition, particularly, the Justice bloc that brought the case to the CC, though without any success. Only 6 parties and blocs received more than 5% of votes and thus are now represented in NA: the Republican Party (about 23.6% of votes), the Justice bloc (13.8%), the Rule of Law Party (12.5%), the ARFD (11.5%), the National Accord Party (8.9%) and the United Labor Party (5.7%)[49]. The remaining 24% of votes (received by the rest 15 parties and blocs under the 5% barrier) were redistributed among the abovementioned 6 parties that passed a 5% barrier.

As mentioned above, three parties (namely, the Republican, Rule of Law Country and Dashnaktsutyun Parties) formed a coalition Government and distributed among themselves the leadership positions in the NA (specifically, Speaker, 2 Vice-Speakers and Chairmen of the Permanent Committees). It is for the first time when the Armenian parties (that have their ministers in the Government) are supposed to take political responsibility for their appointees, as no minister could be removed from his/her position without the consent of his/her party.

Party funding is one of the most secret topics for today's political parties in Armenia. No doubt, money is necessary, but not sufficient factor for effective and efficient functioning of the party, since the latter also needs both committed and active volunteers with strong and charismatic leaders as well as other means to promote its ideology and program. The Armenian parties usually do not have large membership, so they cannot survive only on membership fees and therefore have to seek other sources of funding. These sources could be donations from the individual and corporate supporters, state or local budgets, as well as revenues from the certain types of activities the parties allowed to carry out (see Article 24 of the Law on Parties).

Within the last 2-3 years, more and more new parties were created or/and funded by big businesses. Though only one of those parties passed a 5% barrier in the 2003 NA elections, dependence from business interests is becoming a tendency even for some traditional parties[50]. The current fundraising process distorts the political system of the country. Very few donations are being done because of the shared ideology. More often, the donators expect from parties very tangible returns when these parties come to power. Returns can be in various forms such as the lucrative contracts for business donators, passage of laws they would benefit from, creation of loopholes in taxation of goods and services they produced, etc.

Despite the existence of formal provisions regarding the political party funding, transparency of donations and financial transactions as well as accountability of the party accounts is not ensured at all. Article 24 of the Law on Political Parties provides that the party funds are formed from: a) membership fees, if they are stipulated by the party's charter; b) donations; c) subsidies from the state budget in a manner prescribed by the given Law; and d) civil legal contracts and other sources, not forbidden by the legislation.

Article 25 of the same Law regulates the sources of donations (who has and has no right to give donations to parties, how to make donations, and should the party do in case of receiving forbidden donations). Article 27 regulates the subsidization of certain parties from the state budget. In particular, it defines the minimal level of the subsidy, which party is eligible to receive subsidies, and the minimal level of subsidy for each party. Part 6

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

According to a representative of the Ministry of Justice, political parties formally comply with the legal requirements. In fact, the parties claim that they do not receive any substantial donations, and, thus, their financial reports do not contain any information about such donations. Even if the parties receive such donations, they hide it in their financial reports. Usually, as the experts mention, the party "splits" that large donation into a large number of small ones, and then asks some of its members to "donate" these pieces to him.

There are several reasons for such practice. First, if the donors are large businesses, they are afraid to disclose themselves to tax authorities. Second, some donations are simply money laundering operations, which, naturally, cannot be made public. Third, there are rumours that some parties receive funding from abroad, which is a violation of the law (see Article 25 of the Law on Parties). Finally, the fourth reason mentioned by experts is that big donors avoid making public their donations to opposition parties fearing of unfavourable repercussions from authorities for such support.

There are no explicit formal or informal legal provisions relating to party expenditures, except for the expenditures during the NA election campaigns, which are regulated by the Electoral Code (see below). It is assumed that parties should control themselves in spending their money to promote their goals and ideas.

Clause 2 of Article 22 of the Law on Political Parties defines publishing of the annual report on the use of the parties' property in the press as one of the duties of the parties. That information should also mention the sources of its incomes. Point 4 of Article 28 of the same Law obliges the parties to publish in mass media outlets their annual financial reports not later than on March 25 of the next fiscal year. In 2003, no party report was published. As a representative of the Ministry of Justice mentioned in this respect, respective authorities did not consider that fact as a violation of the Law, since it was the first (transitional year) of its enforcement.

As the political party has a status of a legal person, checking of its accounts falls under the jurisdiction of the State Tax Service. Point 2 of Article 28 of the Law on Parties obliges the parties to submit their financial reports to the Ministry of Justice as well. Thus, their financial reports can be also checked by the Ministry of Justice.

Every year the State Tax Service carries out selective checks of randomly selected parties. In the case, if irregularities or violations of laws are revealed, the State Tax Service is obliged to start investigation and informs the Ministry of Justice about those problems. The Ministry of Justice also can carry out its independent investigation based on the analysis of the financial reports submitted to it by the parties.

Though it is reported by officials that legal provisions are followed in practice, no cases of investigation were reported by media during the last five years. Particularly, none of the parties publicized its financial report last year though it is required by the law. Neither the State Tax Service published any information concerning party's accounts. In any event, neither the old legislation, which was regulating the functioning of political parties and was in effect from February 1991 to November 2003, nor the new Law on Parties provides mechanisms for checking how the parties comply with. According to the Ministry of Justice officials, the Ministry is currently preparing a package of decisions, which will provide mechanisms for enforcing the publication of the parties' financial reports.

Provisions related to the funding of the parties' pre-election campaigns (regardless the type of elections) contain in Articles 8, 25 and 112 of the Electoral Code. The parties participating in the pre-election campaign must open "pre-election funds" in the Central Bank separate from their regular accounts. Article 25 of the Electoral Code indicates who has and who does not have the right to donate money to the parties involved in the elections. Thus, political parties can receive money from individuals and legal persons through their pre-election funds, and transfer certain amount of money from their party

accounts to their pre-election funds[51]. The state and local self-government bodies, state-owned enterprises and organizations, foreign physical and legal persons, individuals with no citizenship, businesses with mixed ownership (with more than 30% state or foreign ownership), religious, benevolent organizations as well as international organizations and international NGOs are not allowed to make donations to any pre-election funds.

According to the same Article 25 of the Electoral Code, the Central Bank is obliged to provide the Central Electoral Commission (CEC) with information on all transactions related to the party pre-election funds every 3 days. The Electoral Code also provides that the party financial declaration forms about the transactions related to these funds should be submitted to the CEC. These transactions can not take place after the voting day, and it is prohibited by the law to use any means during the campaign other than those from the pre-election party funds. The CEC is required to publish information provided by the parties in a format it decides itself (see Article 25 of the Electoral Code).

In this respect, it is worthy mentioning that Article 27 of the Law on Parties allows subsidization of certain political parties (those received more than 3% of votes on the proportional list ballot at the last NA elections) from the state budget. However, the Electoral Code does not provide any mechanisms excluding the use of this funding during the pre-election campaign. For example, on its regular meeting on April 17, 2003[52], the Government decided to allocate part of the funds from the state budget to the parties eligible for receiving such funds, and there are some indications that the recipient parties specifically used these subsidies to finance their campaigns. During the implementation of the project on the monitoring of the finances of political parties and blocs participating in the 2003 NA elections (conducted by the CRD/TI Armenia) some parties unofficially admitted that they used these subsidies to finance their election campaigns.

The Electoral Code sets the upper limits of the party pre-election funds for the NA elections, the maximum amounts of donations that individuals and businesses can make them, as well as the maximum size of the transfer that the party can make from its regular account. The use of administrative resources (facilities, transportation, etc.) is prohibited. Control over the transactions of the pre-election funds is performed by the Control and Review Service under the CEC (see Article 26 of the Electoral Code).

In fact, there is almost no control exercised by the appropriate state authorities over the pre-election funding of the parties, as was revealed by the results of the above-mentioned CRD/TI Armenia project on the monitoring of the finances of political parties in the 2003 NA elections. The findings clearly demonstrated that almost all parties and blocs spent more on the campaign than they declared to the Control and Review Service of the CEC, whereas 3 of them (the Republican, Rule of Law Party Country and Dashnaktsutyun Parties) substantially exceeded the pre-election fund limit. Also, the media reported on evidences of the wide use of administrative resources by a number of the pro-governmental parties, especially the Republican Party. Briefly, three parties, supported by the President of Armenia and later formed the Coalition Government, violated the provisions of Electoral Code.

In the meantime, the Review and Control Service under CEC did not find any violations committed by them. At the CEC session held on July 18, 2003, there was a discussion concerning the approval of the report of the Control and Review Service on the pre-election funds. Responding to the arguments of one of the members of CEC, which were based on the findings of CRD/TI Armenia, the Head of the Service accepted that there could be undeclared expenses such as travel, etc. However, because of the absence of appropriate mechanisms and powers, the Service is not authorized to carry out investigations. Remarkably, the current CEC Chairman Garegin Azaryan accepted this fact at his interview to the Public TV following that session.

Elections and Electoral Commissions

The elective positions in Armenia are as follows: the President of the country (elected every 5 years), members of the NA (elected every 4 years), and the Community Heads

and members of the Avagani (elected every 3 years). The Presidential and NA elections are national elections, while the elections of the Community Heads and Avagani members are local ones. The presidential candidates and candidates for the majoritarian vote at the NA elections as well as the candidates for the local elections can be nominated both by a civil initiative[53] and through political parties. Another part of the members of the NA is elected by the proportional list vote.

The main legislation regulating the election processes in Armenia is the Electoral Code amended for several times after adoption in 1999. The Electoral Code regulates all types of elections. Certain issues related to the election processes are regulated by other laws as well. These are the Law on Public Organizations, the Law on Local Self-Administration, the Law on Political Parties, the Criminal Code, the Code on Administrative Violations, the Law on Mass Media, the Civil Procedural Code, the Law on Television and Radio, and the Law on the Charter of the National Commission on Television and Radio.

Article 27 of the Constitution and Article 1 of the Electoral Code provide that all eligible Armenian citizens have equal voting rights. They elect directly through the guaranteed secret ballots (see Article 3 of the Electoral Code). All costs related to the organization and carrying out of the elections are covered from the state budget, and all related activities of the election commissions should be open to the public (see Articles 7 and 8 of the Electoral Code). The parties and individual candidates participating in the elections have equal rights to run their pre-election campaigns, and the state should secure the equality and non-discrimination of all participants of the election process (see Article 18 of the Electoral Code).

All types of elections are administered by a 3-level election commission system, namely, the CEC, territorial election commissions and precinct election commissions. Articles 41,42 and 43 of the Electoral Code define powers of the CEC, territorial and precinct electoral commissions, respectively. The CEC and territorial election commissions are operating on a permanent basis. According to Article 17.1 of the Electoral Code, the number of territorial election commissions is equal to the number of majoritarian seats in the NA (currently, they are 56). There should be almost equal number of voters in the districts, with up to 15% of the difference between them (see Article 17), and the number of voters in each precinct should not exceed 2,000 (see Article 15)[54].

As Article 16 indicates, the polling stations should be located in the buildings owned by the central and local governments (such as buildings of schools, kindergartens, libraries, universities, sport halls, scientific-research institutes, etc.). The same Article requires that such stations cannot be located in the buildings belonging to governmental institutions (the President Office, the NA, ministries, governmental agencies, municipalities, military units, hospitals, etc.

The Electoral Code (see Article 35) stipulates that the CEC, as well as territorial electoral commissions, shall be composed from 3 members nominated by the President and 1 member from each NA faction established by the previous last NA elections. Each member of the precinct electoral commission is appointed by one of the members of the relevant district electoral commission. According to Articles 35-37 of the Electoral Code, electoral commissions themselves elect their chairmen among their members.

In some developed democracies, the independence of electoral commissions is ensured by giving them a status of the state institution, with the staff composed of public servants working on a permanent basis. Armenia adopted another approach, which is to provide more or less equal representation of political actors (the President, along with the pro-governmental and opposition parties) in all commissions.

Article 32 declares independence of all types of electoral commissions from the central and local authorities. The members of the NA and the Constitutional Court, judges and employees of the law-enforcement agencies, and prosecutor's offices, military officers, proxies, observers, candidates themselves, employees of the bank sector and foreign organizations operating in Armenia cannot be members of any level electoral commissions (see Article 34). At the same time, the Electoral Code does not provide specific legal mechanisms to ensure impartial conduct of the members of the elections commissions' members.

Another serious deficiency of the Code is provisions regulating the meetings of electoral commissions (see Article 39 of the Electoral Code). The meeting of electoral commissions may be held, if more than half of its members attend the meeting (during the last elections 5 out of 9 members), and the decisions are adopted with a simple majority of those who are present. Thus, it is possible to adopt any decision by only 3 (out of 9) members of the electoral commission.

Opposition parties and media[55] claim that the 2003 Presidential elections revealed that electoral commissions were not independent, which was conditioned by the fact that the majority of the members of the electoral commissions of all levels were the representatives of pro-governmental parties. At the recent Presidential elections, the incumbent Robert Kocharyan was openly supported both by three of his nominees in all election commissions and by representatives of three parties – the Republicans, Dashnaktsytyun and the Rule of Law Country Party. As to the last NA elections, the opposition argued that the abovementioned parties and the re-elected President reached an agreement among themselves before the elections on how to distribute votes (seats).

The 2003 Presidential and NA elections in Armenia demonstrated numerous evidences recorded by the international (OSCE/ODIHR[56]) and local[57] observers of how dependent were all levels of election commissions from the state authorities. Vivid examples of such dependence were refusals of registration of candidates: 22 cases of those refusals were documented during the NA elections and 1 – during the Presidential elections. At least, in 6 cases the NA candidates were rejected because of the failure to declare their income and assets in a proper manner[58]. As the OSCE/ODIHR observers confirmed, the checking process related to information regarding income and assets was made selectively by local authorities only for certain candidates, mostly those linked to the opposition.

During the voting and counting processes, numerous cases were reported concerning threats to or removals of the commission members and proxies from the opposition parties. The practice to hold meetings and adopt decisions with no presence of opposition was also common, especially, at the Presidential elections[59]. There were unsubstantiated claims of alleged corruption in the nomination of precinct electoral commissions[60]. Rumours were circulating concerning the bribing of oppositional representatives in the electoral commissions (especially, at the precinct level) by the pro-government candidates and their support teams. There were instances when the members of precinct commissions did not even know which party nominated them when asked by observers about that[61, 62].

Serious irregularities of the election processes, reflecting both the absence of independence of election commissions and lack of transparency of the election process, were fixed during the vote counting, for which the election commissions bear all the responsibility. The CC Decision, April 16, 2003, on the case related to the election results (brought by Stepan Demirchyan, one of the presidential candidates) made invalid the counted numbers of votes in 40 precincts. The CC also declared invalid the results of elections on majoritarian vote in two electoral districts at the NA elections[63].

The major legal deficiency in the Armenian Electoral Code relating to transparency of the election process concerns the tabulation of the preliminary results. Though Article 7 of the Electoral Code states that the whole election process should be transparent, yet there are no specific requirements to oblige all levels of election commissions to publicize and post the preliminary results (precinct by precinct) immediately after the vote counting. There were instances during both elections when the summary results announced by a territorial election commission did not coincide with the summarized numbers obtained from observers at the precinct commissions[64].

As well, the Electoral Code does not require presence of complainant during the review of the complaint brought by him/her. Therefore, the complaint could be reviewed and appropriate decision could be made even in the absence of complainant. In fact, this was a common practice during recent elections, in particular, during the vote counting. Many precinct commissions typically kept proxies at a remote distance from the table, on which the commission members were counting the ballots[65].

Another indication of the lack of transparency of the election process was incidents of intimidation and harassment of journalists at the Presidential and NA elections. The

Association of the Investigative Journalists of Armenia reported about 10 such incidents that happened with local journalists when they were trying to document irregularities at the polling stations.[66] As it was mentioned, "…the situation with the regional media was much worse, but reporters working there are simply afraid to talk about it".

Article 1 of the Electoral Code envisages that the state promotes the competitive and alternative-based elections of the President, the NA and the local self-government bodies, while Article 18 ensures free and equal opportunities for all candidates and parties to run the campaign prohibiting the discrimination to any party or individual candidate. The whole Chapter 6 of the Code is devoted to the regulation of the status, rights and duties of proxies, local and international observers and representatives of mass media.

However, most local and international observers, as well as opposition media, mention about extremely unequal conditions for the candidates were especially evident for the 2003 Presidential elections. Public resources were widely used in support of the incumbent, as the OSCE/ODIHR observers indicated[67]. The Public TV and state-funded *Hayastani Hanrapetutyun* daily demonstrated an unprecedented bias in favor of the Robert Kocharyan. Other TV stations were also favorable to the incumbent President[68].

Though the presidential candidates were not restricted or threatened for criticizing the incumbent, there were recorded cases of intimidation and harassment of the supporters of various candidates. The most violent incident took place on February 4, 2003, in Artashat, Ararat Marz, at a campaign rally for Aram Karapetyan, one of the presidential candidates. A group of young men attacked the manager of his campaign and stabbed him. In the course of the incident, the manager fired a gun. Throughout the region, that incident was soon followed by attacks on the offices of those parties that were affiliated with the incumbent.

Voting and counting processes were severely flawed. There were also numerous incidences of the ballot box stuffing, the circulation of signed and stamped ballots outside the polling stations, etc. All this forced the observers to conclude that the Presidential elections in Armenia "fell short of international standards for democratic elections"[69].

The 2003 NA elections that followed the Presidential elections were marked some improvement (particularly, in conducting the pre-election campaigns and in providing the media coverage). However, they did not meet international standards for democratic elections either[70], especially, in regard with the vote counting and tabulation of votes.

Most of the deficiencies observed during the Presidential elections were registered by observers, though at a smaller scale, during the Parliamentary elections. It should be mentioned here that the conclusions of the Western observers strictly differ from those of the observers from CIS countries, who did not detect serious violations for both elections.

Systematic illegalities were not penalized, though the Criminal Code and the Code on the Administrative Violations precisely define the penalties for the violations of Electoral Code (see Articles 133 and 133.6 of the old Criminal Code, which was in effect until July 31, 2003, as well as Articles 40.1-40.7 of the Code on the Administrative Violations). Evident impunity of those violating the law resulted in the situation when the majority of citizens were openly offered to sell their votes. 75% of 600 respondents of the CRD/TI Armenia phone survey, conducted in June 2003[71], mentioned that they themselves or their relatives were proposed to take bribes to support the NA candidates.

According to the results of the abovementioned survey, there were the following categories of bribes: cash ($1-$20), goods (cigarettes, vegetable oil, wheat, etc.), services (utility payments, repair work, etc.), and so on. 59% of interviewees pointed to the fact that the bribes were offered to vote for representatives of political parties, while 41% were suggested to support individual candidates. In rural areas, the scale of vote buying was even larger, and the bribes were not only in the form of money, but also in the form of fertilizers, shoes, food, and other goods and services, as reported by individuals randomly surveyed in regions.

Supreme Audit Institution

The first audit institution independent from the Executive was established in Armenia in 1994. Its functioning was regulated by the Law on the Chamber of Control (CoC) under the Supreme Council (the former name of the Armenian NA) of the Republic of Armenia. The new Constitution of Armenia institutes the establishment of the CoC as a supreme audit institution. Article 77 of the Constitution provides that the NA oversees the execution of the state budget and approves the annual financial report of the Government only if the appropriate opinion of the CoC is available.

The new Law on the CoC came into force in 1996 to define the structure and functions of the newly established institution. According to Article 1, the CoC is accountable to the Legislature only. Article 4 declares that the functioning of the CoC should be based on its independence, collegiality and publicity and also provides the liability for any actions hindering its activities. As indicated in Article 8, the CoC is headed by a Chairman or by his/her Deputy during the absence of the former. The same Article stipulates that the CoC consists of various Departments and has a Council formed by the Chairman, Deputy Chairman and Heads of the Departments that organizes and plans the activities of the CoC, discusses methodological issues as well as approves the results of the audit.

The CoC Chairman is appointed and removed by the NA upon the proposal of the NA Chairman (see Article 83 of the Constitution), while, his/her Deputy and Heads of Departments are appointed by the NA Chairman upon the proposal of the CoC Chairman (see Article 9 of the Law on CoC). Article 14 of the Law requires that the CoC annual plan of activities should be approved by the NA decision. The Article also provides that the annual plan should take into account the suggestions of the NA permanent committees, factions, groups, as well as individual members.

Article 15 of the Law requires that the CoC annual report summarizing its activities during the previous year should be submitted to the NA within 3 months after the end of the fiscal year. Finally, Article 16 requires that the CoC should submit reference to the NA at the beginning of each semi-annual period. The Law (see Articles 14-16) also requires that the mentioned above documents (annual program, annual report and semi-annual information references) should be made public through their publication in the "*Official Bulletin*".

The CoC Charter approved by the NA Decision, September 9, 1996, regulates all aspects of its functioning in a more detailed way. The amended version of the Charter approved by the NA Decision, April 28, 1999, defined the current structure of the CoC. According to it, the Chamber consists of 5 departments: Department of Control over the State Budget, Department of Control over the Privatization and Denationalization, Department of Control over the Foreign Loans and Credits, Department of Control over the Community Budgets, and Analytical and Information-Methodological Department

Article 8 of the Law on the NA CoC provides that its Chairman, his/her Deputy and Heads of Departments should be citizens of Armenia with higher education. They cannot be the NA members, run other governmental positions or perform other jobs, except jobs of scientific and education nature as well as art and culture. Article 9 of the same Law mentions that the CoC Chairman appoints other CoC employees. In other words, the NA appointment of the CoC Chairman is not based on merit. Rather, the appointee needs to be the one who has the support of the NA majority. As mentioned by the former high level official of the CoC, neither a merit-based recruitment of the CoC staff is ensured. As a result, only heads of the CoC departments have enough qualification, while other employees are mostly under-qualified.

Though Article 9 of the Law on the CoC provides that its Chairman is appointed by the NA for 6-year period, Article 11 stipulates that the powers of the Chairman can be terminated early, by the decision of the NA, without no specification of cases. There are no provisions in the Law concerning the removal of other employees of the CoC.

So far, there had been no removals, though the replacement of the previous Chairman of the CoC (who was headed the Chamber from its establishment in 1996 and till 2002) was accompanied by some controversy. Some argue that the amendment to the Law on the CoC establishing the 6-year term of office for the Chairman was adopted in 1999, and

therefore this amendment should not have had a retrospective effect. If so, the terms of office should have been counted from 1999 (meaning until 2005). Others give the opposite arguments claiming that the terms of the office should be counted starting from 1996.

Media reported on the removal of the previous CoC Chairman indicating that it happened under the pressure of a number of senior government officials (including some ministers) whose agencies had been audited by the CoC[72]. Journalists mentioned that numerous violations and irregularities in the financial activities of these agencies were revealed.

According to Article 2 of the Law on the CoC, the supreme audit institution is obliged to submit to the NA (not to particular committees) its conclusions regarding the annual execution of the state budget and reference information concerning the execution of the budget on a semi-annual basis. Article 15 of the Law on the CoC requires the submission of the annual report to the NA within 3 months after the end of the previous fiscal year. Reports are normally submitted in a timely manner. Corruption is not specifically covered by the CoC reports. Rather they reveal financial problems without analyzing their reasons.

While the annual report is to be debated in the NA, there is no such requirement for the semi-annual reference information (see Article 16 of the Law). Article 5 of the same Law empowers the CoC to oversee both the revenues and expenditures of the state budget. These provisions do not explicitly require annual audit of all public expenditures. What actually happens is that a selective auditing takes place every year.

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

The existence of a number of other state institutions with the similar audit functions undermines the credibility of the CoC. It is quite counter-effective, in some experts' opinion, that, for example, the Control and Review Department of the Ministry of Finance and Economy or the Control and Review Service under the Office of the President are duplicating the same responsibilities. This causes a conflict of agency interests, since the legislation does not provide with any mechanism on how all the institutions should cooperate with one another.

Absence of law enforcement mechanisms causes another problem. There will be little use from the findings of the CoC, unless they are properly checked and analyzed in order to take appropriate follow-up actions. The current Law on the CoC incorporates provisions ensuring certain degree of enforceability (see Article 7). It is required from the heads of the central and local government institutions (subject to the CoC audit) to submit within one-month period official information to the CoC and the NA, if there are any violations detected.

The required information should reveal the measures taken by the heads of the audited institutions to eliminate the recorded violations and hold them responsible. If such information is not submitted timely, then the NA Chairman can send the audit reports to the Office of the Prosecutor General. However, the CoC itself is not authorized to initiate similar actions, which limits the enforceability of its decisions, as the NA leadership may not always be interested or willing to take decisive follow-up actions on the findings of the CoC audit.

Insufficient funding (from the state budget) also makes the CoC functioning ineffective. This entails to the improper remuneration of the CoC staff, which, in its turn, negatively affects its level of professionalism. In addition to this, the CoC has no capacity and resources to use the up-to-date modern practices in accounting, public finance and public administration.

Judiciary

According to Articles 91-103 of the Armenian Constitution, the judicial system consists of the courts of general jurisdiction, the CC, the system of public prosecution, the Council of Justice and the Council of the Chairmen of Courts. Article 10 of the Law on the Court System adopted in 1998 provides that the court system of Armenia consists of the courts of first instance, review courts, the Court of Appeal and the Economic Court. Article 92 of the Constitution explicitly bans creation of extraordinary courts, while Article 29 of the Law on the Court System indicates that the funding of all the courts is provided from the state budget (with a separate line item for each).

The courts of first instance examine criminal cases, cases related to the military crimes and administrative violations, detention, etc. (see Article 13 of the Law on the Court System). The same Article determines that there should be 17 courts of first instance in Armenia – one in each of the 10 Marzes and 7 – in Yerevan. Each court of first instance is composed of the Chairman of the Court and judges (see Articles 14 and 15). The number of judges depends on the size of jurisdiction and ranges from 1 to 11.

Review courts re-examine the cases brought to the courts of first instance based on the submitted appeal for review (see Article 18). There are 2 review courts: the Review Court on Civil Cases and the Review Court on Criminal and Martial Cases (both located in Yerevan). The former is composed from the Chairman and 9 judges and the latter – from the Chairman and 15 judges.

The Economic Court examines all disputes of economic character. Verdicts of the Economic Court can be appealed only in the Court of Appeal (see Article 20.1) The Court is composed of the Chairman and 21 judges, 6 of which are the judges examining cases of insolvency. It is located in Yerevan and can have branches in provinces.

According to Article 21, the Court of Appeal reviews verdicts and decisions of the courts of first instance, the review courts and the Economic Court based on the submitted appeals on retrial. Its decisions come into force immediately and cannot be appealed. The Court of Appeal is located in Yerevan and consists of the Chairman of the Court, the Chamber on Civil and Economic Matters and the Chamber of Criminal and Martial Matters. Each Chamber consists of its Chairman and 5 judges. There are the following grounds of bringing appeals to the Court: the violations of material or procedural rights of the parties of the trial process and the newly emerged circumstances (see Article 22).

As Articles 26-28 of the Law on the Court System indicate, the Council of Chairmen of the Courts should consist of the Chairmen of the Court of Appeal and its both Chambers, the review courts and the Economic Court as well as the courts of first instance. The Chairman of the Council is also the Chairman of the Court of Appeal. There is a special unit established within the Staff of the Court of Appeals to carry out functions of the Staff of the Council. The meetings of the Council should be held at least once a quarter.

The Council of Chairmen of the Courts is performing the following duties in the manner prescribed by the Law (see Article 27): summarizing the judicial cases and giving the advisory clarifications on the implementation of laws; submitting the suggestions to the authorized state institutions on the improvement of legal acts; petitioning to the President of Armenia on the appeals to the Constitutional Court, the Presidential Decrees and Government Decisions related to the Constitution, with respect to their compliance with the law; developing and approving the Code of Ethics of the Judges (which was not approved as of December 31, 2003); composing and submitting the requests to the Government to provide the state funding to each court; etc.

Article 99 of the Armenian Constitution envisages that the CC consists of 9 members (5 appointed by the NA and 4 – by the President). The functioning of the CC is regulated by the 1997 Law on the CC. The CC decides whether the laws and decisions passed by the NA, the Presidential Decrees and Orders, the Government Decisions, as well as the obligations fixed in the international treaties and agreements, is in compliance with the Armenian Constitution. It also solves the disputes related to the results of the referenda, the Presidential and NA elections, the impeachment of the President of the country, and so on.

Finally, Article 94 of the Constitution stipulates that the President of the country is the Chairman of the Council of Justice, while the Vice-Chairmen are the Minister of Justice and the Prosecutor General. The Council is composed of 14 members (2 law specialists, 9 judges and 3 prosecutors) appointed by the President for a 5-year term. In this case, 3 out of 9 judges should be the judges of first instance courts, 3 – of review courts and 3 - of the Court of Appeals (see Article 94 of the Constitution and Article 1 of the Law on the Council of Justice). Article 3 of the Law on the Council of Justice provides that the general meetings of judges proposes 3 candidates for each position to be chosen by a secret ballot, whereas it is the Prosecutor General who submits the candidacies of prosecutor-candidates.

There is no actual court review of the actions of Executive, though the Constitution of Armenia (see Article 38 and 39) and some other legal acts such as the Civil Code (Article 15) implicitly provide that the complaints against the Executive and other governmental institutions can be brought to the courts of general jurisdiction in the cases of violation of the citizens' rights. However, due to general mistrust in the Judiciary, actual impunity of state officials, fear to be repressed by authorities, etc., people typically avoid the courts. Media often refer to corruption and illegalities in the Judiciary, and, in particular, to rare cases brought against the Executive, when the court decisions are usually made in favour of the state representatives[73].

Also, there are no special courts to appeal to and specific legislation to rely on (relevant articles are dispersed in the Criminal and Civil Codes), which makes the appeal process even more difficult.

Another problem is that even formally the average citizens cannot apply to the CC, though other courts are not allowed to review cases of violation of constitutional rights. As of December 2003, the CC passed 462 decisions[74]. The overwhelming majority of them (more than 400) concerned the compliance of the provisions of international conventions, agreements and treaties with the Armenian Constitution. 31 decisions were related to the disputed elections, out of which 16 cases were related to the 2003 NA elections, and 3 - the 2003 Presidential elections[75,76].

The CC dismissed the appeals brought by the opposition parties that lost all their cases[77,78]. One of successful cases was the decision was made in favour of the opposition candidate Shavarsh Kocharyan. These examples are considered by opposition leaders and some independent experts as a clear evidence of the pro-governmental position of the CC.

So far, only 6 decisions of the CC were made with respect to the compliance of the provisions of the laws to the Constitution and 1 decision - regarding the NA Decision. The CC has never examined any cases concerning the Presidential Decrees or the Governmental Decisions.

Articles 14-15 of the Law on the Council of Justice and Article 3 of the Law on the CC explicitly state that the appointments of judges should be based on the professional and moral qualities of the candidates. Article 19 of the Law on the Council of Justice and Article 30 of the Law on the Status of Judge define the grounds for early termination of the powers (removal) of judges. Article 14 of the Law on CC defines the grounds for early termination of powers for the member of the CC.

Article 98 of the Constitution forbids the judges to hold any other positions in the state institutions or be paid for any other activities but scientific, pedagogical, and arts and culture-related ones, or be a member of any political party and be involved in the politics. Article 8 of the Law on the Status of Judge and Article 3 of the Law on the CC ban political activities of the members of the CC. While the status of the CC members does not change during the whole period of their work, Articles 13 of the Law on the Council of Justice provides that the recruitment and career development of judges (including the advance in the judicial ranks) should be based on the merit, too.

In the meantime, Article 55 of the Constitution empowers the President to appoint, remove and promote all judges (upon the recommendation of the Council of Justice), and to nominate four out of nine members of the CC. There is no information regarding procedures of appointment, removal and career development of judges. Neither it is clear

how the Council of Justice actually decides whom to recommend to the President. Presidential Decrees on the judges' appointments, removals or promotions also do not disclose such data. General public opinion is that recruitment and career development of judges is always related to bribery, nepotism and partisanship.

Though the Armenian Constitution (see Article 94) and relevant laws formally declare independence of the Judiciary and independence of judges and members of the CC (see Article 97 of the Constitution, Article 5 of the Law on the Status of Judge, and Article 10 of the Law on the Constitutional Court), they are highly dependent from the Executive. This can be explained by legal dependency from the President and financial dependency from the state budget. Political culture in Armenia also matters, since it incorporates the mentality based on a corporate solidarity among state officials rather than a primary mission to ensure justice.

Opposition and some experts claim that political dependence of the Judiciary from the top Executive was especially manifested itself in two cases. One is related to the murder of Tigran Naghdalyan, Head of the Armenian Public TV Company, on December 28, 2002. The trial of a dozen men accused of planning and committing the murder of Naghdalyan ended on November 18, 2003. The judge sentenced businessman Armen Sargsyan, whose brother Aram is a former Prime Minister and a prominent opposition politician, to 15 years' imprisonment for mastering and paying for the killing. Sargsyan has repeatedly denied any connection with the murder[79].

Another case was the assassination of eight senior officials (among which were Vazgen Sargsyan, then the Prime Minister, and Karen Demirchayn, the NA Chairman) by five gunmen in the NA on October 27, 1999. All were sentenced to life imprisonment on December 2, 2003. People's Party of Armenia Chairman Stephan Demirchyan, son of the assassinated NA Chairman, who suspects the Armenian leadership of involvement in the killing, accused the authorities of seeking to "cover up the crime"[80].

The absence of accountability and transparency of the Judiciary is another critical problem. In fact, there are legal provisions ensuring the openness of court proceedings and requiring the verdicts and decisions to be made public (see Article 9 of the Law on Court System). Journalists and average people can attend all the courts during trial sessions.

Today, judges are actually accountable to the President of the country only. The Armenian Council of Justice is headed by the President who appoints all 14 members of the Council. Currently, the Council of Justice has the power to carry out the disciplinary sanctions against the judges for their wrongdoing, which can be regarded as a form of the peer accountability. These disciplinary sanctions have some legal deficiencies. First, there are no fines, but warning, reprimand and severe reprimand in a form of disciplinary sanctions (see Article 20 of the Law on the Council of Justice). The procedures of carrying out disciplinary sanctions are not specified, and no disciplinary sanctions are provided for the members of the CC.

The survey conducted by CRD/TI Armenia[81] revealed that 84% of households, 92% of businesses and 88.5% of public officials consider courts as corrupt. Besides, for households and businesses they are the most corrupted state institutions. The findings of the public opinion survey carried out by the Armenian Democratic Forum showed that almost 59% of households simply do not apply to courts because they think that it is impossible to solve the case without bribes[82]. Though the media is regularly covering the activities of the Judiciary, the coverage, with few exceptions, has no investigative nature.

Since the establishment of the Council of Justice in 1998, media reported only about 1 case of corruption in the Judiciary that has been officially recorded. In 2000, the criminal proceedings were instituted against a judge of the first instance court of the Lori Marz who was convicted for bribery[83]. His powers were terminated, though the ground of this termination was not mentioned in the appropriate Presidential Decree[84]. According to the same source of information, the Council of Justice terminated powers of two other judges as well, one as a result of disciplinary sanctions[85] and the other one - based on the written request[86]. Another 2 cases of termination of powers of the judges were registered in 2002[87].

As reported by the Association of Investigative Journalists of Armenia[88], the Council of Justice is very reluctant to work transparently. For example, when the press informed that in 2002 the law-enforcement authorities arrested an assistant to a judge of the Lori Marz first instance court at the moment when he was accepting a $200 bribe[89], the Council of Justice did not comment on that and never released any official information.

Some experts think that many corruption cases within the Judiciary simply did not reach the courts because the investigation was stopped in the Police and the Prosecutor Offices either because of corruption or "corporate" solidarity among public officials. Not surprisingly, the actual impunity of judges and the closeness and ineffectiveness of the Judiciary makes most people think that all judges behave illegally. That is why citizens of Armenia normally avoid contacts with the Judiciary. Those who have to appeal to the courts or are somehow involved in the cases brought to the court strongly believe that the desired fair decision can be made only after paying bribes.

Civil Service

The Armenian Civil Service is a part of the Public Service, which also includes Defense, National Security, Police, Tax, Customs, Diplomatic and other services. The Law on Civil Service enforced in the beginning of 2002 is one of the major outcomes of a broad Public Sector Reform Program that is being undertaken in Armenia. According to Article 3 of the Law, civil service is a professional paid activity aimed at implementation of particular objectives and functions of state institutions. Unlike political and discretionary positions, a civil service position is not subject to change when a configuration of political forces has changed.

The Civil Service involves the staff of the President Office, the Government, executive bodies, Marzpetarans, the Yerevan municipality, standing commissions, agencies, etc. (see Article 4 the Law on Civil Service). According to Article 7 of the Law, the Civil Service Positions are classified into four groups: the highest, the senior, the leading and the junior Civil Service positions. There are also classification grades of the Civil Servants (see Article 8).

As envisaged by Article 36 of the Law on Civil Service, the Civil Service Council and the Heads of the Staff of the abovementioned state institutions are responsible for the management and organization of the Civil Service. The Civil Service Council was formed in 2002 (see the Presidential Decree #1019, January 15, 2002). The Chairman, Deputy Chairman and five members of the Council are appointed and removed by the President of the country, upon the recommendation of the Prime Minister (see Article 38 of the Law on Civil Service). As noted in Article 37 of the Law on Civil Service, the Chairman of the Civil Service Council has a deliberate vote at the Government sessions. Both Council members and staff are considered as the Civil Servants.

Article 37 of the Law on Civil Service states that the Civil Service Council performs the following duties: provision of methodological supervision and control on issues related to human resource management; appeal to the court to eliminate those legal acts that contradict the Civil Service legislation; review of suggestions, applications and complaints concerning the Civil Service; carrying out administrative (or service) investigations within the Civil Service system; approval of applications of a second disciplinary penalty to the Civil Servants; adoption of relevant normative legal acts envisaged by the law; submission of drafts of legal acts related to the Civil Service to the President, the Government and the Prime Minister; etc.

The members of the Civil Service Council, except for the first members of the Civil Service Council, shall be appointed for six years. The Civil Service Council is financed through the state budget, as well as other resources not prohibited by the law (see Article 37 of the Law on Civil Service). The Civil Service Council is also obliged to inform the NA about its activities on an annual basis. In the meantime, there is no requirement to publish such information.

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

In the meantime, the Law on Civil Service provides that the highest Civil Servants are appointed by political figures such as the President, the Prime Minister, Ministers, etc. (see Article 15 of the Law on Civil Service). Also, the highest classification grades, namely, the State Counselor of the 1st and 2nd classes of the Civil Service shall be bestowed, degraded, as well as deprived by the President. All this makes the highest Civil Servants dependent and thus vulnerable to political influence.

When political "temperature" reached its highest degree during the recent Presidential and NA elections, there were a number of evidences as reported in media[90] of how ministers and other high officials forced Civil Servants to use public resources and abuse power to support the pro-government candidates and parties.

Soon after the formation of a new Government, media reported about the pressure on employees of state institutions. In interview with Manvel Badalyan, Chairman of the Civil Service Council, *Aravot* daily, July 17, 2003, journalist Margarit Yesayan pointed out that there are rumors that 13 new Heads of Ministries and other institutions informally applied to Mr. Badalyan with requests to help get rid of some undesirable employees. Mr. Badalyan commented on this saying that "…there were no requests from the heads, but there were signals from civil servants who were asked to resign". He also said, "…probably some people resigned because of the pressure, we will make investigation for all cases".

According to Article 10, the job descriptions (referred to as "passports") of the Civil Service Positions include job requirements concerning education, work history and professional experience. A vacant position of the Civil Servant can be occupied only through competition and as a result of the successful attestation. Civil Service Council is organizing competition for the highest and senior Civil Servant positions, while each state institution recruits leading and junior Civil Servants. The same is true for attestation procedures. Article 19 of the Civil Service Law envisages that every year at least one third of the Civil Servants shall be subject to mandatory attestation. Regular attestation of the Civil Servant shall be carried out once every three years. As envisaged in Article 19 of the Law, training is also mandatory for the Civil Servants.

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

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

Nevertheless, there are many rumours about appointments of close relatives, friends or business partners of high state officials to the Civil Service positions. Media, experts and public opinion surveys indicate that bribery, nepotism, clanship and cronyism still prevail within state institutions. The Chairman of the Civil Service Council mentioned in one of his interviews, "…we are tired of requests from relatives, friends, in-laws…"[91].

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

There are several restrictions concerning taking of gifts by the Civil Servants (see Article 24 of the Law on Civil Service, the Government Decision #48, February 17, 1993, and Article 166.1 of the Code on Administrative Violations). Nevertheless, there is no effective control over the enforcement of that legislation.

Media did not report about removals of Civil Servants based on the proven violations related to declarations of assets and income, which is obligatory for all Civil Servants (see Article 23 of the Law on Civil Service). It should be noted that the legislation (see the Law on Declaration of Incomes and Assets of High State Officials and other relevant legal acts) obliges only the highest and senior Civil Servants as well as their relatives to declare their assets and income. There are no similar legal provisions concerning the leading and junior Civil Servant positions.

Code (or Rules) of Ethics of Civil Servants (one page document) was approved by the Civil Service Council Decision #13-N in May 2002. Though among the main duties of the Civil Servants is to follow the rules of ethics (see Article 23 of the Law on Civil Service), no due attention is paid to ethical issues.

In general, the adoption of the Law on Civil Service can be considered as a step forward in promoting more open state institutions, yet poor law enforcement, along with old mentality of Armenian bureaucrats, cause a situation when the Civil Servants working in ministries, agencies, departments, commissions, etc., are not generally accessible to the media or the public.

Formally, almost all legal acts enter into force after their publication (see Article 46 of the Law on Legal Acts). Numerous laws, for example, the Law on Registration of Legal Persons, the Law on Licensing, the Law on Public Procurement, etc., provide a clear description of appropriate procedures and require publication of the relevant decisions.

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

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

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

As stipulated in Article 32 of the Law on Civil Service, there are the following types of administrative punishments for not performing the Civil Servant duties or performing them not in a proper manner: warning, reprimand, severe reprimand, wage cut, and dismissal, upon the agreement of the Civil Service Council. In some cases, identified by the Civil

Service Council, administrative punishments are imposed only after carrying out appropriate investigation.

There are numerous services under the President Office, the Government, within the Ministries, etc. , that have review and control functions. Because of the lack of coordination and the absence of clearly identified responsibilities of those services, they often duplicate each other's activities. Moreover, this mechanism seems to be not very effective because it is applied against the Civil Service not by independent agencies, but services under the Executive control.

As to citizens' complaint mechanisms, it is allowed to appeal to the immediate supervisor of the Civil Servant. Civil Servants are liable for violation of the Civil Service and other legislation and can be punished and even sued in the manner prescribed by the law. Trials against state officials are not common practice due to public mistrust towards the Judiciary.

Responding to the CRD/TI Armenia's official request regarding the number of corruption-related criminal cases for the period of 2000-2002, the Ministry of Justice informed that total 284 state officials had been convicted on this matter (154 - in 2000, 85 - in 2001, and 45 in 2002). 100 (62 - in 2000, 27 - in 2001 and 11 - in 2002) of the convicted officials were sentenced for the forgery; and 92 (45 - in 2000, 25 - in 2001 and 22 - in 2002) - for abuse of power. 56 (28 - in 2000, 19 - in 2001 and 9 - in 2002) of the accused officials were convicted for receiving, and 23 (16 - in 2000, 6 - in 2001 and 1 - in 2002) for giving bribe. Two officials in 2001 were convicted for mediating in the bribery transaction. Finally, 11 officials (3 - in 2000, 6 - in 2001 and 2 - in 2002) were sentenced for exceeding their authority.

These numbers do not include cases, which did not reach the courts. Neither they reflect the occupation profile of those sentenced. It should be mentioned that the state officials are oftentimes accused of corruption, but rarely brought to the court, and no explanation is given on these matters, as it happened, for example, in the case of the Assistant Commander of border troops of the National Security Service, Colonel Samvel Mkhitaryan allegedly suspected of "large-scale bribery"[92].

Police and Prosecutors

Since the adoption of the Constitution in July 1995, the Police forces were reorganized three times. Initially, the Police was the responsibility of the Ministry of Interior. In November 1996, the Presidential Decree #667, merged the Ministry of Interior and the Ministry of National Security into one ministry. Three years later, the Presidential Decree #287, June 15, 1999, restored the previous state of affairs. Finally, by the Presidential decree #1218, December 17, 2002, the Ministry of Internal Affairs was reorganized to include the Police, which became a service agency under the Government.

The Armenian Police Service is a centralized system, with no municipal Police (see the 2002 Law on Police). Article 2 of the Law on Police passed in 2001 defines that the objectives of the Police are: protection of the life, health, rights, freedoms and lawful interests of individuals against criminal and other forms of illegal violations; protection of the interests of society and state; preliminary prevention, prevention and impeding the crime; detection and exposure of the crime; maintenance of public order and security; and protection of all forms of property. The Law on Police does not specifically determine the structure of the Police Force. Article 9 of the Law provides that the Government of Armenia shall determine the police structure and size of the staff[93]. It should be mentioned that the sources open to public (IRTEK legal database and "*Official Bulletin*") do not contain any Governmental decision on the structure and size of the Police. Presumably, this information is seen as a state secret.

According to the Armenian Constitution, the prosecution system is a part of the judicial branch of the government system. Article 103 of the Constitution defines that the prosecution is a centralized system headed by the Prosecutor General. The same Article identifies the following duties of the Office of the Prosecutor General: initiation of criminal

prosecution in the cases and manner prescribed by law; supervision of investigative practice to ensure its compliance to law; defence of the accusation at the court; bringing an action for the defence of state interests; appeal of verdicts and decisions of the courts; and supervision of enforcement of verdicts and other means of compulsion.

Article 9 of the Law on Public Prosecution adopted in 1998 provides that the prosecution system of Armenia consists of the Office of the Pro secutor General and a number of structural units such as the Offices of the Public Prosecutors in Marzes, the Office of the Public Prosecutor in Yerevan, the Offices of Public Prosecutor in the Yerevan Neighbouring Communities, the Office of the Military Prosecutor and Offices of the Garrison Military Prosecutors.

Article 10 of the same Law defines the structure of the Office of the Prosecutor General. The Office is comprised from departments, divisions within departments and other separate divisions. There are the following departments in the Office of the Prosecutor General: Department of the Protection of State Interests; Department of Control over the Legality of the Preliminary Investigation and Investigation; Department of Defense of the Criminal Prosecution in the Courts; Department of Control over the Legality of the Application of the Punishment and Other Methods of Compulsion; and Department of Investigation.

Article 8 of the Law on Police and Article 39 of the Law on Police Service prohibit those serving or working in the Police to join any political party. Article 42 of the Law on Police bans interference of other state bodies in the police activities, with the exception of the Office of the Prosecutor General, which oversees the legal conformity of activities of the Police.

According to Article 39 of the Law on Police Service, a Police Servant shall not be paid for other activities, except scientific, pedagogical or creative ones; be personally engaged in business activities; be an intermediary in the relationships between the Police and other entities; receive honoraria for publications and speeches made within the scope of his/her professional activities, as well as gifts, money or services from other persons in exchange for performing his/her duties; join NGOs (except those involved in scientific, cultural, sports, hunting, veteran or similar activities), religious organizations and trade unions; and organize or participate in strikes, manifestations and marches.

Meanwhile, according to Article 13 of the Law on Police Service, it is the President who appoints and removes the Head of Police, upon the recommendation of the Prime Minister, and his deputies, upon the recommendation of the Head of the Police (including the Commander of Police Forces, who is also the Deputy of the Head of Police). Article 5 of the same Law also gives the President power to confer the highest ranks in the Police (colonel-general, lieutenant-general and major-general). Being a centralized and strongly hierarchical system, the Police thus becomes very dependent from the President. Moreover, if the previous status of a Ministry, as a part of the Government, made the Police, to some extent, accountable to the NA, after reorganization into a service agency under the Government it does not take such responsibility.

In the meantime, Article 14 of the Law on Police Service states that the appointed Head of the Police must be either one of the Deputies of the previous Head (including the Commander of Police Forces) or a senior police officer (the Head or the Deputy Head of Department or the Head of Division) that served in those positions at least three years prior to the appointment. Also, the appointee must hold at least a rank of Colonel of Police. Similar requirements are in place for appointing the Deputy Heads of Police.

Article 15 of the Law on Police Service provides that the career development of police officers, except of the highest officers of Police (Head of Police and his deputies), should be based on the results of their attestation. The same Article stipulates that each police officer should pass attestation every three years. The removal of the police officer shall be based on the results of attestation: Articles 42, 45 and 46 define the grounds for removal of police officers from the Service or the office. At least once in 5 years, senior police officers have to participate in the training programs, while other officers can be also trained in the cases determined by the law (see Article 16).

In general, all this can be considered as positive in ensuring a merit-based approach. However, the widespread public opinion is that appointment and promotion in the Police are mostly based on bribing and nepotism, rather than on merit. Such perception is based not only on rumours, but also on personal experience of people. For example, during the CRD/TI Armenia survey, one respondent confessed that he paid $5,000[94] for a position in the Police (then the Ministry of Interior).

The Police is mainly perceived by the public as an effective tool for the President and the ruling political forces to suppress any opposition, as well as promote personal (political and economic) interests. Opposition leaders and media state that this was evident during the elections. For example, on February 22, 2003, right after the first round of the Presidential elections, the Police started detentions of the supporters of Stepan Demirchyan, the opposition candidate, who passed to the second round of elections. The main allegations were hooliganism and/or participation in the unsanctioned demonstrations. There were also reported cases[95] when police officers exercised a practice of selectivity while handling cases of ballot stuffing, gatherings of unauthorized persons in the polling stations and other violations of the Electoral Code during elections on February 19 and March 5, 2003.

As to legal safeguards for the independence of the Office of the Prosecutor General, they are more developed, as compared to the Police. In Chapter 6 of the Constitution entitled “The Judiciary”, the prosecution is identified as a separate centralized system headed by the Prosecutor General. Article 6 of the Law on the Public Prosecution prohibits the interference with the activities of the Office of Public Prosecution. Meanwhile, the Prosecutor General is obliged to submit annual statements about the activities of the Office to the President and the NA.

By Article 5 of the Law on the Public Prosecution, political parties are prohibited to carry out their activities within the Office. The same Article forbids that the employees of the Office join political parties, as well as hold any other public office or be paid for any other activities, except scientific, educational and creative ones.

However, here again, the system of appointment, removal and career advancement of senior officers of the Office of Prosecutor General compromises the independence of the Office. As in the case of the Police, the President exclusively appoints, removes or promotes the senior officials. Article 55 of the Constitution empowers the President to appoint and remove the Prosecutor General, upon the recommendation of the Prime Minister. So far, 5 Ministers of Interior and 6 Prosecutor Generals have been replaced.

The same Article extends the presidential power to appointment and removal of the Deputies of Prosecutor General and Heads of territorial units of the Office of the Prosecutor General. The President also has power to sanction arrest, detention and criminal or administrative prosecution of his appointees, upon the recommendation of the Council of Justice.

The provisions of Article 22 of the Law on the Office of Public Prosecution somehow restrict power of the President through promoting merit-based elements in the appointment process. According to that Article, Deputies to the Prosecutor General and Heads of the territorial units of the Office of Prosecutor General (who are appointed by the President) must have higher education in law and at least five years of work experience in legal issues. Interestingly, the Law does not mention any criteria for the appointment of the Prosecutor General. Nevertheless, heavy dependence of the public prosecution is obvious and it is also seen as a means to protect interests of those in power rather than to enforce the law.

Conflict of interest, nepotism and cronyism dominate in law enforcement bodies regardless of the existing conflict of interest and other relevant rules (see Article 39 of the Law on Police Service). It should be noted though that there are no similar provisions provided by the Law on the Office of Public Prosecution.

Both the Police and the Prosecution are very closed systems, though all the legal provisions concerning public access to information apply to them as well. Specific nature of activities is very often used as a valid reason for hiding information or refusing its

provision. Citizens face even more difficulties while trying to obtain information from the Police and the Prosecution than from other state institutions.

Article 20 of the Law on Police Service stipulates the declaration of incomes as one of the duties of the Police officer. Failure to submit such declaration is among the grounds for the release of the police officer from the Police service (see Article 45 of the same Law). Monitoring of income and assets of senior police officers and prosecutors are regulated by the Law on Declaration of Incomes and Assets of High State Officials and the Law on Amendments and Additions to the Law on Declaration of Incomes and Assets of High State Officials. As in other cases, there are no such regulations for other police officers. Neither control and actual monitoring of assets and income of the police officers and prosecutors is ensured.

As of December 2003, there are no special units within law enforcement bodies for investigating and prosecuting corruption crimes, or independent mechanisms to handle complaints of corruption against the Police and the Prosecution. Article 190 of the Criminal Procedural Code provides that certain crimes, including corruption-related ones can be initially investigated by the Police, the National Security Service and the Prosecution and then prosecuted by the latter only. Here is again a situation when the state institution is authorized to execute control over itself. Neither other branches of government nor civil society have a role in preventing corruption and crime within the Police Service and the Prosecution.

As a result, in the last five years only 35 police officers were convicted for corruption related crimes, as reported by the Police in response of the CRD/TI Armenia's request to provide such information. In the meantime, the Office of the Prosecutor General and the Ministry of Justice referred to the Police to obtain the same statistics regarding the prosecutors, but, the Police officially responded that it has no such data collected.

There are no specific legislative instruments for investigating and prosecuting corruption cases. All instruments defined in the Criminal Procedural Code and the Criminal Code to investigate and prosecute other types of crime are also applied for the corruption crimes. A special chapter in the Criminal Code (Chapter 29) defines penalties for the corruption crimes (such as abuse of power; exceeding authority; involvement in illegal business activities; giving, accepting and soliciting bribes; and forgery) committed by public officials. Nevertheless, because of the lack of real control and check-and-balance mechanisms, actual impunity of law enforcement officers and "corporate" solidarity among them formal provisions are not effectively enforced.

According to the CRD/TI Armenia public opinion survey, the Police and the Office of Prosecutor General are considered as the most corrupt institutions by households and businesses. Poor law enforcement was mentioned by the majority of respondents (households, businessmen and public officials)[96]. The range of unofficial payments made by households to the Police (excluding traffic police) varies from $17 to $5,000, with median number $200, while businessmen paid from $20 to $1,000[97]. In the case of traffic police, the respective numbers were $1-1,000, with median number $2 for households, and from $1-9, with median number $1.73, for enterprises.

Media repeatedly covers cases directly or indirectly related to corruption (mostly, bribery) within the Police and the prosecution[98]. Another manifestation of abuse of power, apart from taking and giving bribes, is using torture and other violent means against individuals. Though the Law forbids beatings, torture, psychological pressure and other violent methods still remain a routine practice of the Armenian police officers and prosecutors. This was reflected in the 2002 US State Department Country Annual Report on Human Rights Practices[99]. As pointed out in the Report, "…impunity of officials who committed such abuses remained a problem"[100].

Public Procurement

The Law on Procurement entered into force in 2000 to provide efficient organization, publicity and transparency of the procurement process; ensure economically beneficial

conditions of the purchase for the state and communities; apply unified rules of the organization of procurement procedures for all governmental institutions and local self-government bodies; secure the state regulation and inter-sector coordination as well as the primacy of the principle of equal right of participation for any person independent of its residence (see Article 2).

Article 16 of the Law states that all procurement costs shall be subsidized from the state budget, budgets of communities and/or other funds under the disposal of state and local self-government bodies. According to Article 17 of the Law, the authorized state body, namely, the Ministry of Finance and Economy[101] shall be in charge of regulation of procurement proceedings and inter-sector coordination. The authorized state body cannot be a party to any procurement contract and be independently involved in procurement proceedings, except the cases of procurement carried out for its own needs.

As mentioned in Article 18 of the Law on Public Procurement, there are three types of procurement in Armenia: centralized and decentralized competitive bidding; solicitation of price quotations; and single source procurement. Tenders can be open and closed as well as subject to one- and two-round procedures. Tender committees manage the process: they shall be established by the customer prior to the tender announcement and publication of tender invitation documents, and be composed of at least 5 members. Their main duties are to approve the texts of tender announcements and tender invitation documents, open and evaluate the bids, and define the winners (see Article 32).

The Law sets strict legal requirements for application of other two types of procurement. Thus, solicitation of price quotations are allowed, if the estimated value of the commodities, works or services subject to procurement does not exceed three fourth of procurement base unit which is minimum salary level multiplied by 1,000 (see Article 22). Currently, this amount equals to 750,000 AMD (approximately US$1,340).

Article 23 of the Law on Procurement allows single-source procurement only for three cases. First case is when goods, works and services are possible to procure from only one entity conditioned by the supplier's copyright, absence of tender and existence of the appropriate license. Second case is of an extreme urgency, when the unforeseen need of goods, works and services are not caused by the actions of the customer. Third case is when the technical peculiarities make necessary to extend procurement with the same entity if the price is not exceeding the starting one by 20 %. This is the only case, when the customer is allowed to expand the amount of procured goods, works and services (see Article 24). Nevertheless, such additional procurement can be performed only once. Article 24 also prohibits artificial partitioning of the procured goods, works and services.

Article 19 of the Law envisages that all centralized procurement can be undertaken only by the state institution authorized by the Government - the State Procurement Agency. The Agency was first established under the Government (see the Government Decisions #531, August 31, 2000; #572, September 16, 2000; # 1267, December 27, 2001). Later, it was given a status of the state non-commercial organization and its new charter was approved by the Government Decision #1904, October 31, 2002. According to the latter, the State Procurement Agency performs the following functions:

- Receipt and registration of the tender applications and price lists;
- Preparation of documents containing information on the procurement procedures;
- Application of procedures against illegal actions of the parties involved in the procurement process;
- Taking measures to guarantee the right of equal participation in the procurement process
- Taking measures to ensure publicity of the procurement process;
- Formation of the tender and price listing commissions, organization of their functioning and their dissolution;
- Contracting the winners of the tender and price listing;

- Reviewing letters, appeals and complaints and taking measures against illegalities and deficiencies mentioned in those documents; etc.

Article 51 of the Law on Procurement vests powers related to procurement, with some exceptions, to the Avagani (Community Council of Elderly) as well. The latter can assist customers in conducting procurements and reviewing conformity with appropriate legislation, approving or rejecting the customers' decisions about the form of the procurement and entering into contracts, as well as form bidding committees, define their procedures and appeal procurement decisions.

As mentioned above, there are formal rules requiring competitiveness of the procurement processes and limiting the extent of sole sourcing. For example, Article 18 of the Law on Procurement defines tender as a preferred form of the procurement, and Article 24 prohibits artificial partitioning of the procured goods, works and services, as well as artificial extension of the contracts except those of single sourcing. Article 14 forbids the customer to formulate technical requirements for the procured goods, services and works in a way that can hinder the participation of all interested suppliers. Article 8 of the Law obliges the customer to equally treat all the bidders.

A number of legal provisions also provide a legal basis for the impartiality of the procurement process. Article 7 defines the criteria for the participation and qualification of the participants, one of which prohibits participation of those legal or physical persons whose founder or one of the co-founders is the member of the tender commission or his/her close relative. The same Article forbids the customer to limit the participation of any person or entity (except those who do not meet the criteria prescribed by the Law) through establishing discriminatory selection criteria or requirements that are not envisaged by the legislation. In certain cases, the Government can limit participation of foreign residents if it contradicts the interests of national security and defense. In those cases, the customer is obliged to mention those conditions in the tender announcement.

The legal requirement of making a public tender announcement (see Article 25) also contributes to the promotion of competitiveness. Article 5 and 6 require that all related legal acts and information regarding all open competitions to be published and announced in "*Official Bulletin of Procurement*". In the meantime, the details of the procurement cannot be published, if they contain state secret. According to the Government Decision #1267, December 27, 2001, the Ministry of Finance and Economy should send the announcement on open bid to print press outlets having at least 3,000 circulations and (or) to other media within three working days after its announcement in "*Official Bulletin of Procurement*".

As stated in Article 25 of the Law on Public Procurement, publication of the tender announcement in the media circulating at least in ten countries is required for the goods and services, total costs of which exceed 90 times of the procurement basic unit (450 mln AMD or $760,000) and for works, total cost of which exceeds 500 times of the procurement basic unit (2.5 bln AMD or $4,200,000).

Article 10 of the Law on Procurement stipulates that the customer should make minutes of the procurement process regardless of the form of procurement, if the procurement costs exceed one-fourth of the procurement basic unit. If the procurement price does not exceed one forth the procurement basic unit, then the customer must take notes about the procurement process. The minutes should contain the detailed information about the process, actions of the customer, etc. Within ten days after the conclusion of the contract or termination of the procurement process, the customer should submit the minutes to the Ministry of Finance and Economy. Any person can ask for information containing in the minutes or notes, and the customer is obliged to provide it within three working days, if it does not contain state secret.

Article 33 of the Law provides that the bidders may be present at the opening of the bids and express special opinion on the procedures of the bids to be enclosed in the minutes. The same Article obliges the customer to inform (within two working days after the bids' opening) those participants of the tender who were not present on the opening session. Finally, Article 12 requires that the customer should publish its decision in the "*Official Bulletin of Procurement*" within twenty working days after making that decision.

Meanwhile, despite the existing regulations there are various corrupt opportunities for those officials who are involved in public procurement. In experts' opinion, among them are classic cases of tailoring bid specifications to favor particular suppliers; restricting information about contracting opportunities; claiming urgency as an excuse to award to a single contractor without tender; breaching the confidentiality of suppliers' offers; disqualifying potential suppliers through improper pre-qualification procedures; and taking bribes to decide the winner. On the other side, the suppliers can collude to fix bid prices, influence the bidding process through personal contacts or high level patrons and offer bribes.

One of classic examples of avoiding tenders is illustrated in *Aravot* daily[102]. Gagik Khachatryan, Head of the State Procurement Agency, was asked by the journalist to explain how senior state officials managed in a short period of time to acquire luxury cars for the office use. The Head of Agency responded that the cars were acquired as "urgent procurement", reminding that it is allowed by the Law on Procurement and does not require long time for organizing tenders. The question "why senior officials needed the cars so urgently?" has no answer yet.

In the abovementioned interview, it was said that 240 bids had been conducted in 2003, with participation of about 600 businesses and total 15 billion AMD of goods, services and works procured. As compared to 5.5 billion AMD spent for the public procurement in 2001, this is a substantial increase.

Meanwhile, some experts and business representatives mention that more than 70% of public procurement in Armenia are deliberately made through a less competitive and less transparent single-source and soliciting price quotations forms, especially, in the fields of defense, education and science, and health.

Article 18 of the Law on Procurement requires the list of the annual procurement to be published with classification as a separate annex to the Law on State Budget, which makes the Government accountable for budget expenditures related to the public procurement.

A whole Chapter 6 of the Law on Procurement regulates in detail the procedures of appeal. The appeals can be brought both against the customer and the authorized state body. The supplier can appeal within five days after publishing the procurement decisions. Contracting authority examines complaint within five days and makes decisions on refusal or satisfaction in case of total or partial acceptance of the complaint. If the results are not satisfying to the applicant or the decision of the contracting authority is not made or passed within the deadline period, the supplier can complain to the State Procurement Agency within fifteen days after publication of the procurement decision. Article 45 of the Law also provides that the supplier can appeal to the court. Articles 46, 47 and 50 regulate the procedures of appealing to the customer, the authorized state body and the court. The legislation holds liable a state public official who signed the procurement contract for damages incurred by state, community or supplier, if the contract has been signed in a manner, other than prescribed by law (see Article 51).

There are not many evidences of strict control over the procurement processes. The representative of the State Procurement Agency mentioned that so far 4-5 such cases have been reviewed in courts. The limited number of cases can be explained by unwillingness of the suppliers to appeal to the courts, as well as by the fact very few businesses participate in the tenders. As claimed by some experts, concentration of political and economic power in the hands of a small elite group lets certain businesses win bids at expense of other bidders. In such cases, all the formal requirements are mainly followed, so it is not easy to prove invalidity of the procurement decisions. Being aware of this, non-privileged businesses do not even try to apply for the bids.

Sometimes, corrupt officials create fictitious companies, which then participate in tenders. The existence of too many bidders, combined with the limited timeframe for the bidding committee to define the winner, could be used as an excuse for making "wrong" decisions. Another deficiency is the lack of detailed qualification of bidding criteria. As a result, very often, the winner is the bidder, who offered the lowest price, though has no sufficient qualification.

Experts also argue that the Law also does not require disclosure of the price of the bid at the bid opening and thus creates corrupt opportunities for public officials to "bargain" with the bidders on the procurement prices. A serious shortcoming of the Law is that the tender announcement includes the estimated value of the future procurement contract (see Article 25-26), which gives an opportunity to the involved state officials to arbitrarily set high, non-market, values, which artificially limits the number of potential bidders.

Finally, there are no special legal provisions on monitoring income and assets of the state officials involved in the procurement process. The same Law on Declaration of Incomes and Assets of High State Officials and the Law on Amendments and Additions to that Law apply to senior officials working in the Ministry of Finance and Economy, but not to those working in the State Procurement Agency, which is not in the list of institutions, senior officials of which are subject to declare their income and assets. In fact, some senior officials of the State Procurement Agency are still submitting their declarations of income and assets, along with their close relatives, simply because their previous positions in the Agency (which then had a status of the institution under the Government) were required to do so during 5 years after leaving the office.

Media

Article 24 of the Armenian Constitution guarantees freedom of speech, including the freedom to seek, receive and disseminate information and ideas through any means of information. This provision is restated in Articles 2 and 3 of the 1991 Law on Press and Other Means of Mass Media and Article 4 of the 2000 Law on TV and Radio.

The new Law on Mass Media was adopted in December 2003 to be enforced in February 2004. Media-related activities are also regulated by other legal acts such as the Law on Freedom of Information (2003), the Law on Licensing (2003), the Regulations of the National Commission on Television and Radio (2002), the Procedure of the Competition for Licensing of TV and Radio Program Broadcasting (2002), etc[103].

Article 8 of the Law on Press and Other Means of Mass Media provides that registered legal persons can found media outlets. Article 16 of the Law on TV and Radio allows the existence of private TV and radio companies. It defines as private all TV and radio companies founded by physical or legal persons. According to the legislation, private media entities are subject to registration by the Ministry of Justice, while TV and Radio Companies must also get licenses for broadcasting their programs. The National Commission on Television and Radio (NCTR) is the state body authorized to issue and withdraw those licenses. By Article 37 of the Law on Television and Radio, it has power to define the compliance of the broadcasted programs to the acting legislation.

As of December 2003, there are 44 regularly published newspapers, 58 TV Companies (34 of them are regional), 13 Radio Companies (5 of them are regional) and 6 News Agencies[104]. Only few of them, namely, National TV (Public TV), National Radio Company (Public Radio), *Hayastani Hanrapetutyun* daily and *Respublika Armenia* weekly, are funded by the state and considered as official sources of information. Political parties are not forbidden to own media outlets and some of them have official newspapers. For example, *Yerkir* weekly is the official publication of the Dashnaktsutyun Party; *Iravunk* (published twice a week) is the newspaper of the Constitutional Right Union Party; and so on.

Normally, the newspapers are of 4-8 pages, with a small circulation from 1,000 to 6,000 copies. Only 5-6 of newspapers are published on a daily basis (except Sundays, Mondays and national holidays). The remaining newspapers are published once, twice or three times a week or once a month. Because of poor economic conditions most of them do not have permanent reporters outside Armenia. However, some newspapers regularly receive information from the freelancers working abroad. The situation with the media is worse in regions where newspapers are published quite irregularly. Most TV and Radio Stations are also located in Yerevan and do not cover the whole territory of Armenia.

In 2001, the Association of Investigative Journalists conducted a survey among Armenian journalists[105]. One of the major conclusions made from the findings of the survey is that

the journalists consider financial difficulties (including journalists' remuneration) and unsatisfactory level of journalistic professionalism as the most serious problems of the Armenian media.

There are annual press freedom surveys conducted by the Freedom House[106], as a composite index of three sub-indices – laws and regulations affecting the media content, political pressures and controls on the media content, as well as economic factors influencing the media content. According to the survey results, there is a steady decline in the degree of freedom of press in Armenia since 2000. For 1999 Armenia's rating number was 56 (this number has not changed since 1996). For 2000 it became equal to 57, for 2001 – 59, for 2002 – 60, and, finally, for 2003 – 65 (the number for each year reflects the situation with press freedom for the previous year). The higher is the rate, the lower is the degree of press freedom in the country under consideration.

The situation with freedom of speech in Armenia was seriously worsened in the last few years. The Freedom House mentioned two major reasons for the declined degree of freedom. First, in 2002 the government was repeatedly using "security or criminal libel laws to stifle criticism", and, secondly, it forced to close "the country's leading independent television station A1+"[107] (see below).

Some experts and journalists believe that certain legal provisions of the Armenian legislation are abused by the authorities to restrict the media freedom. The new Criminal Code "inherited" from the old Soviet legislation the articles regarding libel (see Article 135), insult (see Article 136), publicizing the state secrets (see Article 306) and insulting the state authorities (see Article 318). The abovementioned articles are used to file lawsuits against journalists and media outlets. In its annual reports, the Yerevan Press Club Commission for Protection of Freedom of Speech documented such lawsuits: in 1999-2002: 4 lawsuits were instituted against journalists, 2 of which were refused by the Office of the Prosecutor General[108].

Censorship is used to repress the media as well, though formally both the Law on Press and Other Means of Media (see Article 2) and the Law on Television and Radio (see Article 4) prohibit censorship in Armenia. Provisions prohibiting the abuse of freedom of speech (see Article 6 of the Law on Press and Other Means of Media) or abuse of TV and Radio broadcast (see Article 24 of the Law on Television and Radio) regard not only internationally accepted topics forbidden for publication (such as state secrets, war instigation, violence, ethnic and religious hatred, pornography, drugs and others), but also libel, false or unverified information.

In the meantime, there is no provision in the Armenian Constitution prohibiting censorship. And there have been instances of implicit censorship, when obstacles have been created to prevent the publication of undesirable information in the newspaper or prevent its access to public. This manifested itself either in threatening the reporter or even using physical violence against him, or suing him/her in the court, or buying all issues of the newspaper and then destroying them. The editors of newspapers or heads or editors of TV or radio companies often advise the journalists not to write about a particular issue or a person[109].

In addition, Article 28 of the Law on Press and Other Means of Media mentions disseminating the verified information, informing the source of information (when it is published for the first time) and the editor about the unverified facts and other data as the duties of the journalists not to violate the provisions of the Article of the same Law. Article 30 of the Law envisages the liability for disseminating the libel, false or unverified information, and this can be used to exercise the indirect censorship.

Imperfect legislation regulating access to information in Armenia also leaves a room for government officials to prevent the dissemination of the unwanted information. First, the government officials can label the needed information as official and state secrets, even if this is not the case. Since the legislation related to this is not certain and there are no mechanisms to verify whether the refusal to provide the requested information is in compliance with the law or not. Second, public officials respond the applicant in such incomplete or ambiguous manner that the latter actually gets no answer at all.

Selective treatment exercised by public officials, particularly, representatives of public relations departments while sharing information and granting accreditation also discriminates the journalists[110]. The most notable incidents of this character are mentioned in the annual reports of the Commission for Protection of Freedom of Speech[111]. The survey of the Association of Investigative Journalists indicates that such intimidating behaviour is most typical for the Police Service, the Ministry of Defence and the Office of Prosecutor General[112]. However, the cross-analysis of data revealed that the journalists specialized in specific topics mentioned as accessible those state institutions that they regularly worked with. Assertions about the closeness of certain governmental structures mostly came from the multi-profile journalists, covering various areas.

Direct intervention in the media activities such as blocking the undesirable coverage also takes place in Armenia. In local and international election observers' opinion, it happened, for example, with one of the Russian TV station, namely, NTV, during the recent Presidential elections in February 2003. The NTV was shut down for some period of time after its comments regarding the elections made in a manner that did not please the authorities. Officially, it was stated that this was caused by the breakdown in the re-transmission link.

A number of incidences of intimidation, harassment and physical abuse of journalists and editorial offices in Armenia contributed as well to the decline of the initial positive image of Armenia, with the relatively free press. These incidences are documented in the annual reports of the Yerevan Press Club Commission for Protection of Freedom of Speech[113]: 5 incidents occurred in 2000, 11 – in 2001 and 5 – in 2002. It is worth mentioning that until now neither the perpetrators of such incidences were found, nor the criminal proceedings against them were not instituted. As to the murders of journalists, there was only 1 out of 3 cases recorded during the last 5 years that seems to be connected with professional activities of the victim. Tigran Naghdalyan, Director of the state-owned Public TV Company, was killed on December 28, 2002.

Media regularly cover corruption issues. However, most articles or programs appear in the opposition media, especially in such newspapers as *Aravot*, *Haykakan Zhamanak*, *Ayb-Fe*, *Chorrord Ishkhanutyun* dailies, Hetq Online of the Association of the Investigative Journalists, etc. There were two cases when journalists claimed that there were beaten for investigating corruption cases. In one case, it was the incident with Mher Ghalechyan, a journalist of *Chorrord Ishkhanutyun* newspaper, on April 29, 2003[114]. Media reports on this incident referred to the Head of the National Security Service Karlos Petrosyan as allegedly indirectly involved in the case.

Criminal sanctions to restrict reporting corruption can be used through labeling journalists' reports as libel, false, discrediting or offending. That is why, many Armenian journalists, supported by international organizations, including the Council of Europe, are currently campaigning to decriminalize libel by removing that Article from the Criminal Code. So far authorities did not use libel laws to openly restrict reporting of corruption by media. A more common practice is to file civil suits demanding to refute the information published or broadcast in the media outlet. One recent example was the suit brought by the Central Bank against *Aravot* daily in March 2003[115].

According to the results of the Association of Investigative Journalists' survey, most of the surveyed journalists (67.3%) consider themselves and their medium as independent, and only 21.8% of them think that the media in Armenia is generally independent. [116]. Nevertheless, many local and international observers find the Armenian media to be very dependent, both politically and financially.

State intervention into media is exercised through various ways, one of which is the NCTR control. Being a state institution, all 9 members of which are appointed by the President of the country (see Articles 37 and 39 of the Law on Television and Radio), the NCTR could control media activities through its power of issuing and withdrawing the broadcasting radio and TV licenses, as well as defining their compliance with the appropriate legislation.

On April 2, 2002 NCTR withdrew the license of "A1+", a well-known independent TV company, which was frequently giving its air to the opposition politicians and was trying to cover events in more or less impartial way. Formally, this was arranged as "A1+" lost its

bid for the frequency to another TV company. However, there is a widespread public opinion in Armenia shared by the most experts that the decision was made under the political pressure of the high level officials. Moreover, the new bid scheduled for autumn 2002 was artificially delayed, and when it eventually took place on July 18, 2003, "A1+" was again rejected by the NCTR and is still out of air.

Poor economic conditions under which the media operates today led to another form of dependency. The privately owned media in Armenia cannot survive without financial support from outside. In 1997, numerous media outlets appealed to Robert Kocharyan, then the Prime Minister, to ease the tax burden on the private media. The Government position was that creation of any tax breaks for media could open a room for abuses (for example, profitable businesses could be registered as media enterprises). Thus, the alternative decision was to subsidize the privately owned media outlets.

Subsidization from the state budget made many media outlets dependent from the state. Starting from 2000, the Government includes the subsidization of the non-state media in the annual state budget, and in the second half of the financial year disburses those funds according to the preliminary approved list of media companies[117]. Until this year, among the subsidized media were the non-state regional and the Yerevan-based TV and Radio companies, along with some newspapers. However, the 2003 state budget does not include funding for the non-state TV companies[118].

On the other side, most media outlets themselves seek the patronage of influential political or economic actors in order to survive under the current economic conditions. As a result, the majority of the Armenian media companies are led by different political and economic interests. In exchange of the patronage (and very often financial support), the media outlets today mainly express the patrons' opinion on various issues of domestic or foreign politics. Being so dependent from the political and/or business elite, the journalists and editors are traditionally very careful in publishing or broadcasting the stories, which might somehow affect high-rank officials or big businessmen controlling their newspapers or stations. Some experts even argue that self-censorship (that is especially implied to the corruption-related cases) becomes a serious problem for the Armenian media. One of the main reasons of the existing self-censorship is the actual absence of protection of information sources and the lack of security of journalists themselves, despite the existence of formal provisions.

The CRD/TI Armenia monitoring of the 2003 NA election parties' campaign finances[119] clearly demonstrated that most TV companies (and publishing houses) in Armenia are functioning in a non-transparent manner. Most likely, the companies that refused to provide with the requested information on the party pre-election campaigns either gave more airtime to the parties than it was showed in their official documents or offered discounts to some parties thus violating the law in both cases (see Article 18 of the Electoral Code). There were also evidences when transactions were made without signing a contract between the parties and the service providers, and the money was paid in cash, which is also prohibited by laws such as the Law on Profit Tax (1997) and Law on Value-Added Tax (1997). Service providers might themselves offer the party a "good deal" if the latter did not request an invoice for the order. This is a "traditional" way of how businesses in Armenia evade taxes by hiding their real turnover.

In public perception, most journalists are making the "ordered" stories or programs for money, though so far there have not been the proven cases of bribing the journalists. The journalists themselves share such negative opinion: more than 80% of those interviewed by the Association of Investigative Journalists[120] think that the Armenian media is corrupt. According to the majority of respondents (74.5%), the most widespread form of corruption in the media is political protectionism, whereas only 14.5% suppose that it is bribery.

Civil Society

The right of citizens of Armenia to form interest groups or associations with other people is envisaged by Article 25 of the Armenian Constitution. Individuals can be organized in

forms of political parties, public (non-governmental) organizations, foundations, religious groups, trade unions, etc. Provisions regulating the establishment and registration procedures, rights and responsibilities of those organizations are included in Section 4 (Articles 122-127) of Chapter 5 of the Civil Code of the Republic of Armenia (1998) as well as in other legal acts.

During the last years, only few relevant laws were adopted - the Law on Trade Unions (2000), the Law on Public Organizations (2001), the Law on Foundations (2002), etc. Various amendments have been made to the Law on Freedom of Conscience and Religious Organizations since its adoption in 1991. Confessions and religious organizations (other than the Apostolic Church that has been traditionally supportive to the state) are not actively involved into politics, while trade unions are mainly associated with the Soviet times and do not play a new role in the Armenian society. Most charity foundations are established by representatives of the Armenian diaspora who have started making serious efforts in assisting the country's development since the first years of its independence. They mainly target socially vulnerable groups of society, help education and health sectors, as well as arts, culture and science, invest in reconstruction and rehabilitation of churches, schools, museums, roads, hospitals, etc.

The first active citizens' groups were formed in Armenia in the late 1980s. They were mainly concerned about environmental issues related to the chemical industry, mining, Metsamor nuclear power plant, etc. Actually, nationalistic movement was brought to the Armenian political arena through actions of environmental groups, most of which later transformed into political parties and non-governmental organizations (NGOs). The devastating earthquake in 1988 followed by the war over Karabakh, the increasing number of refugees and other socially vulnerable groups, along with the worsening economic situation in the country, led to formation of the next generation of NGOs. Those days, numerous citizens' groups appeared as ad hoc to help people from places affected by the earthquake or military actions; others were involved in distributing humanitarian aid from abroad.

Soon after, many of those groups established their own NGOs to focus on social protection of the earthquake victims and the poor, service delivery, conflict resolution, rights of refugees and war veterans, etc. In mid-1990s, new NGOs emerged with a broader agenda such as building democratic institutions, private sector development, regional integration and stability, etc. These NGOs tried to promote a new field of activities – research and monitoring, consultancy and advocacy, legal drafting and lobbying, and so on.

According to the data provided by the Ministry of Justice, there are 3,660 NGOs officially registered in Armenia as of December 31, 2003. However, some experts claim that only about 20% of them are really functioning. There was the NGO Sector Assessment carried out in 2001 by the World Learning, Armenia, through interviews with 165 NGO leaders from randomly selected Marzes and 51 Armenian and foreign opinion leaders[121]. As the assessment results indicate, the majority of NGO leaders are male of the age of 40-59 years. The data show that most NGOs were established in the period of 1995-2000, with the average size of less than 10 permanent staff members.

As seen by some opinion leaders, NGOs serve to their communities better than government institutions. One of the interviewed representatives of a donor organization stated that "some people in the government recognize the potential /of NGOs/ for social services, but want such services to be coordinated by government". In fact, a number of donors located in Armenia believe that if well trained, the NGO sector can deliver social services on a contractual basis through government coordination.

However, the assessment data demonstrate that even the most successful and recognized NGOs are far from the professionalism if evaluated based on western standards, though they are good in proposal and report writing and used to get funding on a regular basis. It has been reported that only 12.1% of the interviewed Armenian NGOs have reached a high level of organizational maturity. In the meantime, 68% of them received professional and technical training, while the vast majority expressed the willingness to achieve greater competence in their fields of interests.

Since then, the situation has become better - through the last 2 years the representatives of the NGO sector initiated a lot of serious initiatives in various fields. The public recognizes such positive developments and has more confidence to NGOs than, for example, to political parties. The results of the survey, conducted in March-April 2003 by the Armenian Association of Women with University Education and the Center for Democracy and Peace, indicates that 45% of respondents partially or completely trust NGOs, while only 30% are confident about political parties[122].

In 2001, the Civil Society Development Union interviewed 50 NGOs to find out to what extent the Armenian ministries are open to provide with the requested information[123]. 58% of the surveyed NGOs considered access to information as a critical factor in fighting corruption in the country, while 95% of them perceive the government institutions as non-transparent. In NGOs' opinion, the Ministry of Social Security and the Ministry of Education and Science were considered to be relatively transparent institutions, whereas the Ministry of Defense and the Ministry of National Security, along with the Staff of the Minister of Territorial Administration, were seen as the most non-transparent ones.

Overall, 92% of respondents mentioned that they very much needed official information, but only 37% referred to written responses from the state institutions as the main sources of the obtained information. As reported, it is well-known NGOs that typically receive complete answers from state institutions. Therefore, other NGOs have to use their personal contacts and unofficial sources of information. In the meantime, official responses did not generally meet applicants' expectations: 54% of the interviewed NGOs found them either incomplete or invalid.

Half of the surveyed NGOs that were unsatisfied with official responses and later took consistent follow-up actions (through applying to a particular responsible person, using personal contacts, publicizing facts of refusal in mass media, appealing to supervising authorities and courts) succeeded in getting the requested information. When asked about the main reasons of having the limited access to information in Armenia, most NGOs pointed to the absence of appropriate laws, regulations and procedures, the lack of institutional capacity in the public sector, along with the low qualification of public officials in the field of public relations.

Formally, the Armenian legislation entitles everyone to have the right to seek and receive information from the state authorities. All laws enter into force only after their publication. Citizens can get information on the approved legal acts through "*Official Bulletin*" and "Bulletin of Normative Acts" (available for free in public libraries as well as for subscription and sale), other official publications, government and non-government websites and newspapers. Some legal acts such as the Law on Urban Development, Law on Local Self-Government, Aarhus Convention, etc. also have provisions related to access to particular information. Before the recent enforcement of the Law on Freedom of Information, access to information and documents from the authorities was regulated by the Law on Citizens' Suggestions, Applications and Complaints.

In the meantime, it is possible to hide information requested from the state institutions because of its secrecy. For instance, Article 59 of the Law on Legal Acts stipulates that information containing a state or official secret is not subject to publication, which is often used by the representatives of state institutions for not providing the requested information. The absence of specific regulations (the Law on Freedom of Information was enforced only in the end of 2003) creates opportunities for the state officials to arbitrary interpret the existing legislation.

However, not only the legislation matters here, but also the improper attitude and corrupt behavior of state representatives. The 2001-2003 "black lists" of the Center for Freedom of Information of the Association of Investigative Journalists[124] include heads of various institutions such as ministries, government departments, local and regional administrations, Judiciary, state committees and commissions, political parties and private companies who infringed the right of access to information.

Many NGO activists mentioned that there is some correlation between the openness of public officials and the political sensitivity of the issue in question. For instance, during the 2003 Presidential and NA elections' campaigns it was not easy to approach state

institutions with any inquiry, since the authorities were worried about possible use of the obtained information as a "black PR" against them.

Oftentimes though, NGOs themselves are responsible for the poor communication with the state officials. They do not always submit inquires and letters written in a proper way and follow all the procedures prescribed by the law. As to what state officials think about this issue, one may again refer to the findings of the Civil Society Development Union. Representatives of the departments of public relations of various state institutions indicated that the limited access to information is determined by the lack of clear mechanisms of collecting and sharing information, the absence of institutional capacity, the deficiency of technical and human resources, etc.[125]

The authors of the article "Law In Armenia Is A Commodity That Is Being Sold"[126] point to the fact that in regions people can get bulletins only in Marzpetarans where one sample of each bulletin is available, whereas local government bodies have to subscribe or buy bulletins, which is not always affordable. Bulletin prices vary from 1,200 to 10,000 AMD (about $2-$18). Article 63 of the Law on Legal Acts prescribes local government bodies to publicize the decisions of the Head of Community and the Community Council in special official bulletins. It is envisaged by the law as well that official information of local importance can be posted on the bulletin boards. Both are not the case in the Armenian communities, partially because of the lack of finances, but mostly due to the fact that the law is simply ignored, as reported in the article.

Another paid source of information can be introduced through an example of the State Register of the Ministry of Justice that provides with the requested information for the fee of less than $2 per inquiry. "IRTEK" legal database (developed and maintained by a private company) can be installed for 46,400AMD (about $80), with the monthly fee of 17,400AMD (about $30), but it is not considered an official source of information.

There are evidences of such cooperation in Armenia in the fields of human rights, social issues, environment, business sector development, etc. Some NGOs and business associations are nowadays represented in the state commissions and advisory councils under the state institutions such as the Business Council under the Prime Minister of Armenia. In some cases, donors invite NGOs to participate in their projects with the Government. For example, various NGOs have been involved in the development of the National Poverty Reduction Strategy Paper (PRSP) approved in August 2003. Though not all of those involved were satisfied with the results of that participatory process, it was still a rather positive experience.

NGO representatives are not regularly invited to the hearings organized by the NA Commissions. According to Article 75 of the Armenian Constitution, only members of the NA and the Government have the right to take a legislative initiative, civil society groups can not promote their legislative initiatives on their own. As a rule, citizens' groups either have to approach individual parliamentarians or apply to appropriate Ministers with the request to consider their legislative initiatives or comments on the proposed legislation. Sometimes, the submissions made by NGOs or business associations raise the issue of how important is such a legislation and lead to its further drafting, with participation of the interested NGOs (e.g. legislation on the rights of handicaps, refugees or alternative military service).

More often though, the NGO experts are involved in making amendments or comments on the draft legislation that has been already submitted by the Government to the NA. In rare cases, the NGOs-Legislature cooperation results in having the final version of the legal document based on both drafts submitted by NGOs and the state institution. Exceptional are the cases when a strong anti-campaign is organized by civil society representatives to postpone the approval of the draft law, as it happened in the case with the draft Law on Mass Media.

Armenian NGOs are mostly involved in anti-corruption by implementing their projects, with no active cooperation with the Government or the NA. Though only few NGOs have specific anti-corruption projects, many others implement projects that include anti-corruption elements such as access to information, improvement of the current legislation, protection of the rights of citizen's or business groups, etc. The National Anti-Corruption NGO

Coalition was established in 2001 under the umbrella of the CRD/TI Armenia and transformed later into the Anti-Corruption NGO Network.

In 2002, representatives of the Anti-Corruption NGO Coalition were invited to one meeting and one workshop related to the development of the National Anti-Corruption Strategy. 8 member-organizations submitted their comments and recommendations to the group of experts who were drafting the Strategy at that time. There was no feedback from the Government; only one expert sent a personal letter to thank NGOs for their contribution. The following year, the new version of the Strategy was approved by the new Government and signed by the President, with no public participation. Such a non-participatory process demonstrated unwillingness of current authorities to cooperate with the public in the field of anti-corruption.

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

The absence of equal partnership between civil society organizations and state institutions can be also explained by the fact that government officials consider civil society groups as competitors in getting donors' funding. Though (unlike NGO representatives) most government officials cannot be personally remunerated by donors, in some cases they can be involved as experts. Moreover, many officials find the way to be rewarded through grant and credit programs by creating NGOs under their patronage and promoting them through abusing their power.

Sometimes, it is not only about competition, but also about pressure from state officials on civil society groups. The former are not protected from unfriendly attitude of government officials responsible for the registration, certification, and other formalities. It is becoming a "good tradition" for the district tax authorities who are in their turn forced by the central government to approach legal entities, including NGOs, on a quarterly basis by asking for the tax pre-payment in order to fill the gaps of the state budget. In some cases, tax inspectors even intimidate NGO representatives when they do not agree to make such pre-payments that are not obligatory by the appropriate legislation, namely, the Law on Taxes (1997) and the Law on Income Taxes (1997). Many NGO leaders mentioned about the cases when they and their family members were personally threatened by a group of people who had introduced themselves as representatives of the state. This typically happened when NGOs have available facts and documents making allegations against high rank state officials or/and monopolist-businessmen under the state "protection" and NGOs were warned to prevent publication of that information.

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

As to public monitoring, there are some NGOs that carried out monitoring of various public services and sectors, namely, the Association of Investigative Journalists (judiciary, local government, environment, etc.); A. D. Sakharov Human Rights Protection Armenian Center (the notary's offices); Helsinki Committee of Armenia (prisons); Yerevan Press Club

(pre-election media coverage); It Is Your Choice (elections), CRD/TI Armenia (pre-election party finances, environment and education); and others.

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

The lack of resources, both in programmatic and financial terms, is one of the most critical problems for the NGO sector. Dependence on grant programs and other kind of external support weakens the sustainability and effectiveness of NGO activities and causes a negative image of NGOs. Normally, average citizens as well as public officials do not explore NGO websites or information booklets. Therefore, the main source of information for people outside the NGO sector is media and rumors. The Armenian media traditionally cover activities of NGOs considering them as "grant hunters". Often, journalists incorrectly use data presented by NGOs because of the lack of information or professionalism. But, sometimes, they frame news deliberately either due to a personal bias or because of a special order from their patrons.

Given poor living conditions in the country, it is understandable when the more grants an NGO receives, the more suspicious people become about it. This makes some experts claim that civil society organizations should not become too professional and have too much money, since it can make them distinct from their constituencies. In their opinion, this is especially alarming when those organizations are simply considered as a means for having an alternative source of income. In 2003, the Association of Investigative Journalists interviewed several randomly selected NGO leaders to figure out what they thought about the negative public perception regarding the sector[127].

One of interviewees, Hakob Abrahamyan, Chairman of the Pyunik Union of Disabled People, stated that "journalists shared a lot of the guilt here, because they are indifferent to NGOs and…do not fully present their work to the public". Jemma Hasratyan, Chairwoman of the Association of Women with University Education, did not blame journalists for misinformation related to the NGO sector noting that they "…are in harsh conditions…do not have time to look deeply into the subject…". Meanwhile, she disagreed with the negative perception of NGOs, "…we work for the public, not for profit".

The other problem is the low professional and ethical standards within civil society organizations. Most NGOs still believe that their mission is to raise issues they consider problematic. Very few NGOs have capacity to provide with the concrete recommendations on how to solve those problems. In the meantime, there are NGOs in Armenia who are capable to deliver services (that are not properly provided by the state), promote public awareness, organize advocacy campaigns, participate in lawmaking process, make policy recommendations, etc. But, their number must grow to ensure effective public participation in the policymaking.

Not every NGO in Armenia recognizes that transparency and accountability are important for proper functioning of not only the state institutions but their organizations as well. There are NGOs that are actually represented by a single person, while all other members or employees are either "ghosts" or close relatives and friends of the founder. That person normally distributes the organization's revenues in the way he/she finds more "appropriate". Some NGO members hold positions in the public or private sectors and/or act under the hidden protection of influential political leaders or businessmen and use all the available means (not always ethical or legal) to get funding for their projects. There are cases when certain NGO leaders have high positions in political parties, own their private businesses and simultaneously work as independent experts for government and international organizations. Most of NGOs in the country simply ignore a "conflict of interests" situation within their organizations.

Situation in the NGO sector actually reflects the state of nature in the whole society. Many NGOs are not acting in compliance with the legislation: tax avoidance, double reporting and accounting practices, giving bribes to “speed up” some bureaucratic procedures are common place in this sector, as in all other sectors in Armenia. Most NGO representatives argue that it is not reasonable to follow imperfect laws and regulations and pay taxes to the state budget when the state authorities are not accountable to the public and nobody knows how it is actually spent. In the meantime, those NGOs that are breaking the law are eventually more vulnerable to the intervention of the state authorities.

It should be also noted that the process of “politicization” of civil society organizations is becoming evident. The recent developments in Armenia clearly demonstrated that the very existence of a large number of civil society groups is conditioned by their political affiliation. Behavioral patterns of the representatives of numerous civil society groups (NGOs, academia, art, culture and educational institutions, etc.) reminded the Soviet era when “puppet” public organizations were used to praise the Communist leaders and demonstrate their “support” to the party initiatives, no matter what those initiatives appear to be.

Regional and Local Government

Articles 104-110 of the Constitution of Armenia provide with a legal ground for new administrative-territorial reforms addressing the issues of regional and local government. According to the Constitution and the Law on the Administrative-Territorial Division (adopted in 1995), Armenia is a unitary state that has a two-tier administrative structure. It is divided into ten Marzes and the Capital City of Yerevan. Marzes include about 930 urban and rural Communities. Yerevan has a Marz status and consists of twelve District (Neighboring) Communities.

In 1995, the position of the Minister was created within the Government of Armenia to coordinate territorial administration and the functioning of state regional agencies. The Presidential Decrees #727 and #728 were issued in May 1997 to regulate the public administration in the Yerevan City and Marzes. Later, the Prime Minister approved the Charter of the Minister of Territorial Administration through its Decision #330 in April 2001. The Law on Local Self-Government was passed in 1996 and then amended for several times before 2002 when the new Law entered into force. The new Law was again amended six months after its adoption.

Today, the Minister of Coordination of Territorial Administration and Operation of Infrastructures is authorized to formulate the main issues of regional policy and ensure its implementation, draft and submit to the Government legal acts related to the regional and local governance issues, ensure the implementation of appropriate laws and social-economic programs, and coordinate the control over regional and local government bodies (see the Prime Minister Decision #330, April 26, 2001). The Minister has the Deputies appointed by the Prime Minister, upon his/her recommendation. Since there is no Ministry to support the day-to-day activities of the Minister and his/her Deputies, such function is delegated to the Government staff.

The regional government has no elected officials or bodies. The Government appoints and dismisses the Marzpets (see Article 107 of the Constitution and the Presidential Decree #728) to represent the state authorities in regions of Armenia, while the Deputy Marzpets are appointed and dismissed by the Prime Minister, upon recommendation of the Marzpet. The Regional Council is an advisory body composed of the Marzpet and the Community Heads of the region that holds sessions to discuss the issues of regional policy and regional development. Marzpets, along with their staff (Civil Servants) in regional administrations – Marzpetarans, carry out the implementation of the government regional policy and coordinate the activities of regional executive bodies, as well as serve as a mediator between central and local governments and regulate the inter-community issues within their competence (see the Presidential Decree #728 and Chapter 7 of the Law on Local Self-Government).

According to the abovementioned Presidential Decree #728, the Marzpets are responsible for the implementation of the government regional policy in various fields such as finances; urban development, environmental protection, residential maintenance and public utilities; transportation and road construction; etc. (see Point 1.2). As indicated in Point 1.3 of the same Decree, the Marzpets coordinate the functioning of the territorial branches of the Ministries of Interior, National Security, Defense, Transportation and Communication, Energy, etc. They also oversee activities of the local government bodies within the scope of mandatory and delegated responsibilities.

The Mayor of Yerevan can be appointed and dismissed only by the President of Armenia, upon nomination of the Prime Minister (see Article 108 of the Constitution). The Mayor of Yerevan responsible for the implementation of the government regional policy within the territory of Yerevan is assigned to prepare the urban development plan, organize construction, maintain various facilities, regulate transportation, control trade, public catering and other consumer services, etc. (see the Presidential Decree #727). The Yerevan Council is comprised of the elected Heads of twelve Neighboring Communities (functioning as the local government bodies) and chaired by the Mayor of Yerevan. The Council approves the budget estimate submitted by the Mayor, names streets, squares, avenues, parks, as well as educational, cultural and other city institutions, regulates trade and public service enterprises and awards honorary citizenship (see Article 82 of the Law on Local Self-Government).

Local governments are a separate branch of the government system in Armenia. It includes the executive body that consists of the elected Community Head and his/her staff and the representative one – the Avagani that comprises 7-15 (depending on the population size - see Article 120 of the Electoral Code) elected Members. Until 1999 when the new Electoral Code entered into force, local elections were regulated by the Law on Local Government Election adopted in 1996. The terms of office for both the Community Head and the Avagani is 3 years. They are chosen through general, equal and direct elections. First local elections were held in 1996. Political parties do not play a major role in local elections. Citizens nominate themselves for local positions and typically run as independent candidates (see Article 123 of the Electoral Code), though nominees' political affiliation can be mentioned in the ballot.

While the local government administration is accountable to the Head of Community, the latter is accountable to the Avagani. Nevertheless, the Head of Community can be removed by the Government not only by a decision of the Avagani, but also upon the recommendation of the Marzpet and the Mayor of Yerevan (see Article 109 of the Constitution and Article 72 of the Law on Local Self-Government). As envisaged in Chapter 4 of the Law on Local Self-Government, the Head of Community has the mandatory responsibilities in the following fields: finances; public safety and defense; community planning and development; construction and land use; public utilities and service provision; etc. The Head of Community appoints his/her Deputy, Secretary of Staff, Heads of Departments and other staff (see Chapter 3).

As to the Avagani, it has power to issue regulations concerning its own functioning; determine the salary of the Community Heads; approve the structure of local administration, local budget, urban development plan and the annual inventory of community property; set up local duties and fees; etc. (see Chapter 2 of the Law on Local Self-Government). Local governments own kindergartens; specialized schools of arts, culture and sports; libraries; parks; bridges; historical buildings and monuments; heating, sewerage, water supply and irrigation systems of community importance; etc. (see Chapter 5 of the Law). Local authorities control delivery of the following services: water supply; sewerage; heating; irrigation; gas; public utilities; sanitation; landscaping; waste collection and disposal; etc. (see Chapter 4 of the Law). Local governments have their own mandatory responsibilities funded by the local budget and delegated responsibilities funded by the central government. They can also implement some voluntary responsibilities through the local budgetary resources.

Except the staff of local-government bodies, all public offices functioning at regional and local levels are appointed by the national (central) government. The President of the

country makes appointments to political positions, while the Government appoints to discretionary and civil service positions.

Actual dominance of the central authorities, certain legal deficiencies and inadequate funding make the Armenian local government system politically and financially dependent from the central government and thus prevent from being autonomous and self-governing. According to the results of the interviews conducted with the Mayors of the Armenian cities, five out of seven respondents mentioned that "the primary problem comes from the fact that local governments do not have clearly defined functions, which creates an authority problem that in its turn complicates management"[128]. As the interviewees said, the main reason is that decentralization in Armenia has been done in an ad-hoc manner, and therefore, the local government system is so inefficient today.

The unclear relationships and the poorly assigned responsibilities among various levels of government result in the situation when numerous state institutions intervene in the day-to-day activities of local government bodies and influence the decision-making at community level. Theoretically, representatives of local governments can appeal to the courts of general jurisdiction against decisions or actions of the state authorities infringing the community or citizens' rights. The Marzpets or the central government officials are also allowed to bring the case to the courts while disputing local government performance. As reported by experts, there were some successful cases when the Mayors defended their rights in the courts, however, the opposite side does not typically exercise such practice[129]. Bearing in mind the full dependence of the Judiciary from the Executive and high level of corruption in the courts it is hard to believe that the protection of local government and community interests through the courts is really ensured.

Interestingly, in almost all cases recorded in the Government Decisions during 1997-2003, the Heads of Communities resigned (in five cases they were deceased and one became a NA member)[130]. Local government practitioners and experts claim that the Heads of Communities are typically forced to resign when it is decided to dismiss them from the office for various reasons.

In Soviet Armenia, communities were traditionally heavily dependent from the central and regional party structures. Nowadays, central government representatives and, particularly, Marzpets are perceived both by local officials and citizens as a replacement of the old party bosses. Though the Marzpets are authorized by the law to review how the local governments perform in accordance with the appropriate legislation and the government regional policy, they, in fact, exercise much more power to extensively control communities. There is almost no case of partnership relations between Marzpetarans and local government bodies. The most common case is a "supervisor-subordinate" scheme. The Marzpets very often use administrative resources to repress local governments and abuse their power to manipulate them.

Besides, the central government has the authority to make decisions regarding a number of issues of community importance such as determination and use of community property, allocation of budgetary loans and credits, development of procedures for collection and distribution of local taxes, etc. Actually, there is no evidence of political will to ensure "de-facto" decentralization in the country, since for most central government officials it assumes giving up power and loosing control over thousands of community officials. The interviewed mayors of 7 cities of Armenia mentioned that "…local governments have very few responsibilities and even those are not implemented because of insufficient financial resources"[131]. Generally, local government finances (both from the state budget and local sources) can cover only a very small share of responsibilities, and available resources are not enough to provide minimum standards of quality of provided services. The state transfers typically comprise more than 50% of local budgets.

Meanwhile, financial assistance from the state is quite irregular and inadequate due to the budget constraints. Moreover, though communities vary in size, capacity and need, the state does not differentiate them much, so its support is distributed unevenly. Both experts and practitioners argue that the existing mechanism of financial equalization does not work at all. The majority of practitioners argue that the formula used for financial equalization is wrong, since it is not based on the population size and expected local

revenues. Such vertical and horizontal imbalance in local budgets eventually leads to the failure in execution of the estimated budgets[132]. The insufficient funding makes local governments unable to pay salaries to the staff, which in its turn results in low tax collection and unsatisfactory service delivery in the Armenian communities.

There is no decentralization in tax collection. Local governments are not authorized to independently set-up the rates for service fees as well as duties and taxes. They can do that only within the limits fixed at the central government level. Until recently, it has been a prerogative of the state tax authorities to collect all the taxes and make all the payments exclusively through the State Treasury. Most experts believe that the local government system would have benefited from the existence of separate community accounts. However, the Government decided to delegate a responsibility to collect the property and land taxes to the local authorities (see the Government Decision #750, May 29, 2003), but still use appropriate accounts in regional branches of the State Treasury. Thus, communities have no actual control over their money. Some experts argue that the community money is being circulated by the state, for example, to get bank interests.

The central government normally fails to provide funding to the communities in a timely and accurate manner. Personal relationships of the Heads of Communities matter more than the legal and administrative requirements. Very often, communities are treated by the state depending on personal skills and contacts of their Heads. In the meantime, the lack of subventions and other state transfers for special programs as well as the absence of common practice of giving loans and credits to local administrations, along with ineffective use and sale of community property also affects the local financial capacity.

Some experts claim that there is more actual transparency in communities than at the central government level, as it is much easier for the public to “monitor” how local officials act and live. On the other hand, people see the Community Heads as persons who have enough power to protect and feed them (sometimes, even from their own pocket). In some cases, especially, in rural areas, the Heads of Communities are elected not because of personal skills, experience or qualification, but rather due to kinship or friendship relations. That is why citizens typically do not openly blame on local leaders and demand transparency and accountability from them, though the majority of population finds their performance to be unsatisfactory.

As mentioned in Article 14 of the Law on Local Self-Government, meetings of the Avagani shall be open. In some cases though, they may be held behind the closed doors upon the decision of the Council adopted by two/thirds of its members present at meeting. The Councils may specify those cases in their charters, but normally they make special decisions on this or that particular case. Usually, citizens and media representatives can attend those meetings with no difficulties. This very much depends on how active the citizens and media are and how open is the Head of Community who actually controls the Avagani Members. Though the legislation requires to make local decisions and activities public and provide people with access to the related information, particularly, on the local budget, yet local government publications, public hearings or citizens’ participation in local decision making are not a common place in the Armenian communities.

With respect to the rules and disclosure provisions on nepotism, conflict of interest, gifts and hospitality, and post public office employment, there are no special provisions in the Armenian legislation regulating these issues at regional and local levels except some cases. According to the Law on Local Self-Government and the Presidential Decrees on Public Administration in the Yerevan City and Marzes, the Mayor of Yerevan City as well as the Marzpet shall not be a Member of the Avagani, hold other position or be involved in other paid activities or businesses except those of pedagogical, scientific or creative nature.

Articles 123 of the Electoral Code stipulates that all candidates for the position of the Head of Community and members of the Avagani shall submit the declarations of their income and assets to territorial electoral commissions. The Law on Assets and Income Declaration of High State Officials requires, among other high officials, judges, Heads of the Prosecutor’s territorial units and territorial departments of Ministries, Marzpets and Mayor of Yerevan City and their Deputies, as well as Heads of the Communities, to declare the state of their assets and income on a yearly basis. While regional administration staff is

considered as Civil Servants and subject to all respective provisions of the Law on Civil Service, mentioned before, local administration staff has no special status and is thus free from such obligations. As to the regulations concerning gifts, they are applicable to all public officials including regional and local government ones.

Specific provisions on restrictions on occupation of other positions are envisaged for the local government (see Articles 18, 20 and 25 of the Law on Local Self-Government). According to them, the Member of the Avagani shall not work in the Office of the Head of the same Community, or be the Head of the Community budget institutions and other organizations. He/she shall not be the Head of other Community, as well as work in law enforcement, national security or judicial bodies. The Avagani Member shall not participate in making decisions which are affecting his/her personal interests or interests of his/her family members and close relatives (parents, brothers, sisters, and children). And, finally, the Head of the Community has no right to hold other public offices or be involved in paid activities other than research, pedagogical, and creative ones.

In spite of the existing legal provisions, there is no strict control over the issues listed above. Allegedly, many regional and local officials are illegally involved in various activities forbidden by the law. Cronyism, nepotism and conflict of interests still prevail at all level of government, while return of gifts and post-public office employment are not the issues for serious consideration.

Local officials could have been held accountable through elections, if there are fair and free elections in Armenia. There is no control of the Avagani over the activities of local administration, since it is a very weak institution. Meanwhile, the absence of clear legal provisions on internal and external administrative review and control over local government decisions and actions creates the situation when numerous state institutions formally and informally intervene in the day-today activities of local administrations.

As stated by Article 77 of the Law on Local Self-Government, the state exercises review and control over local government bodies through the NA (the Chamber of Control) and the Government. Once a year, the latter can delegate an appropriate state institution or Marzpetaran to conduct a financial review. Marzpetarans carry out a legal review of local decisions and have the right to appeal to the court in order to prove their illegal nature. The same regulations refer to the Yerevan City and Neighboring Communities. However, seemingly, local government bodies are requested or forced to report not only by the abovementioned institutions, but also by the Control and Review Service under the President, tax authorities, police and prosecutors, etc., though this does not make local governments work more efficiently and transparently.

As indicated by the results of the 2002 Country Corruption Assessment Survey[133], 65.8% and 54.6% of households respectively consider regional and local government bodies as corrupt, while the interviewed businessmen and public officials rank the Yerevan Municipality as the third among the most corrupt institutions in Armenia. Because of the institutionalized nature of corruption, its chain goes from the top to the bottom of the country's government system.

In local government bodies and the Yerevan Municipality, corruption usually occurs in the cases related to the sale of community property; the issuing of licenses and permissions for construction, trade, catering and other services; "non-tender" selection of private companies to deliver local services; etc. For example, as reported by the NGO Coalition on Protection of Yerevan Green Zones, the recent years witnessed the intensive deterioration of green areas in the city. According to the legislation, it is the Neighboring Communities of Yerevan City that are responsible for giving construction permits. Obviously, a number of laws and regulations (including those related to urban development, environmental protection and public access to information) were violated by municipal officials who allowed (or forced to allow) influential political or business actors to build enormous numbers of cafes and restaurants in parks and other recreation zones.

For example, according to the Government Decision #660, October 28, 1998, all decisions concerning urban development programs and projects (that are to be publicized and discussed) shall be made with participation of civil society representatives. Needless to say that none of decisions was made in a participatory manner. In experts' and journalists'

opinion, the Yerevan Mayor, Heads of the Neighboring Communities and their staff were involved in cases of illegal constructions. The Ecological Council, established under the Yerevan Municipality by the Yerevan Mayor's Decision #1034, August 18, 2000 (amended on April 5, 2001) to discuss environmental issues and promote public participation in decision-making processes, failed to perform its functions. Since its establishment, the Council has had only 1 meeting. As reported in *Golos Armenii* newspaper, since 1997 more than 700 hectares of green zones have been given for constructions and about 115 cafes and restaurants have been built in the downtown area[134]. A series of *Hetq Online* publications accompanied by pictures entitled "We know who the owners are" point to concrete names of senior officials who made illegal constructions, but none of the journalists' inquiries was responded by authorities[135].

Anti-Corruption Activities

Anti-Corruption Government Strategy

The first official document concerning corruption was the Decree on Strengthening the Fight against Abuse of Power and Corruption issued by the first President of Armenia Levon Ter-Petrosyan in September 1992. Seven years later, in 1999, the Prime Minister Vazgen Sargsyan requested the World Bank assistance for drafting a National Anti-Corruption Strategy. The assassination of the Prime Minister and other senior officials in October 1999 delayed further developments. Only on January 22, 2001, the Prime Minister Andranik Margaryan formed the Commission to coordinate anti-corruption government programs (see the Prime Minister Decision #44, January 22, 2001). The Commission is headed by the Prime Minister and consists of the Deputy Chairman of the NA, Ministers of Justice, Finance and Economy and Foreign Affairs, Heads of Police, National Security and the Staff of the President.

Today, there is no special anti-corruption legislation in Armenia, though some legal acts include explicit and implicit anti-corruption measures. Most of ongoing reforms that are being undertaken in the country also incorporate some anti-corruption elements, for example, the public sector reform. In September 1999, the Prime Minister established a Public Sector Reform Commission to coordinate and lead the reform processes in the field of public administration (see the Prime Minister Decision #544, September 3, 1999). The main goals of the public sector reform program was to carry out structural and functional changes at central, regional and local government levels; to prepare the introduction of the Civil Service System; as well as to improve the financial management.

These reforms are to be carried out through two stages: within the period of 1999-2003 and from 2003 till 2008. During the first stage, the NA adopted a number of laws as follows:

- The Law on Public Administration Bodies;
- The Law on State Non-Commercial Organizations;
- The Law on Civil Service;
- The Law on Declaration of Income and Assets of High State Officials;
- The Law on Civil Servant Payment;
- The Law on Police Service;
- The Law on Tax Service;
- The Law on Customs Service;
- The Law on Military Service;
- The Law on Procurement;
- The Customs Code;
- The Electoral Code;
- The Criminal Code, etc.

The formation of the Civil Service Council in January 2002 to administer and regulate civil service activities was aimed at introducing a new merit-based recruitment and promotion system within the public sector. The legislation identified and separated political, discretionary, civil service and supporting staff positions. It was expected that legal and

social protection, along with job security of the Civil Servants, would attract highly qualified professionals to the public sector and thus promote its effectiveness.

Two institutions (the Ministry of Finance and Economy and the State Procurement Agency) were authorized to regulate and coordinate public procurement in Armenia. The Government initiated reorganization of its structure by creating Agencies and Inspectorates with the status of separate sub-divisions of the Ministries and other executive bodies to perform service provision and control functions. For example, the Ministry of Internal Affairs was transformed into the Police Service, while the State Procurement Agency under the Government was given a status of a non-commercial state organization (see above).

The structure of all Ministries was unified through introducing three types of organizational units – Secretariat, Department and Division, with the fixed minimum number of employees. Charters and structures of all the Ministries, Marzpetarans and the Yerevan Municipality have been adjusted to the new legislation and approved. Such a centralization of similar functions and downsizing the state institutions assumed a reduction of the number of employees and rationalization of expenses. As to the financial management, the main focus there was on the new payment system based on the classification and grades of Civil Servants' positions.

The main policy document reflecting new trends of the reform processes in the country is the PRSP that was developed, with support of the World Bank, and approved by the Government of Armenia on August 8, 2003. Its key pillars are the development of private sector, the reorganization and restructuring of public sector and the advancement of human capital.

However, the first serious anti-corruption initiative was taken by the Government in early 2002, when a group of local and foreign experts was formed to develop the National Anti-Corruption Strategy Paper within the IDF Grant Program of the World Bank. The interim draft of the Strategy Paper was discussed at the workshop held in July 2002 with participation of representatives of state authorities, civil society, international organizations and media.

The second, shortened, version of the draft Paper was later disseminated among all the governmental institutions to get their feedback. The revised third version of the Strategy was discussed at the meeting of the members of the Joint Anti-Corruption Task Force with the Prime Minister Andranik Margaryan in January 2003. Representatives of diplomatic missions, international financial institutions and donor organizations who form the Joint Task Force stated that the submitted version of the Strategy needs further improvements.

The year of 2003 brought the two-round Presidential elections that were followed by the NA elections. From January till May, state authorities were fully engaged in preparation and organization of elections. Meanwhile, combating corruption was one of the issues most frequently mentioned by the candidates during pre-election campaigns. In June 2003, a new coalition Government proclaimed the fight against corruption as a priority of its program submitted to a newly elected NA for approval. While presenting the Government program to the NA, the Prime Minister Andranik Margaryan pointed out, "The fight against corruption will be open to a greatest extent so that the public will be informed and able to monitor it"[136].

In August 2003, a new working group consisting of representatives of three parties of the Coalition Government was established to revise the Anti-Corruption Strategy Paper. Media repeatedly reported that there was no consensus between two parties - the Republicans and Dashnaktsutyun – regarding the type of institution to be responsible for implementation of the Strategy. While Dashnaktsutyun representatives favour the establishment of an Anti-Corruption Agency with investigative functions, the Republicans claim that there is no need to establish another agency, as several existing state institutions already perform such functions.

As stated by the Minister of Finance and Economy Vardan Khachatryan representing the Republican Party, "When we solve many institutional problems and each institution performs properly and bears responsibility for poor performance due to the existence of appropriate mechanisms, then we can form any institution"[137]. On behalf of the

Dashnaktsutyun Party, Bagrat Yesayan, member of the Strategy Revision working group of the Coalition Government, stressed that it is vital to have an independent anti-corruption body free of external influence[138].

The last version of the Strategy was finally approved by the Government on November 6, 2003, and signed by the President Robert Kocharyan on December 1, 2003. It was published in "*Official Bulletin*" on December 10, 2003, and in Hayastani Hanrapetutyun daily.

The Strategy Program has a number of positive aspects, for instance, the attempt to apply a systemic approach, proposal of concrete measures for some particular fields, reference to civil society participation, etc. It should be mentioned in regard to public participation that, despite the positive experience of the PRSP participatory drafting, neither the Armenian Government nor interested international organizations ensured broad public discussions of the Anti-Corruption Program in the final stage of its drafting.

On July 16, 2003, CRD/TI Armenia sent a letter to the Prime Minister inquiring about the status of the Strategy and offering its support in organizing public discussions. No answer has been provided to that letter. Taking into consideration that transparency and participation are identified in the Strategy Program as the key principles of the fight against corruption, such an approach can be hardly seen as acceptable. All mentioned above questions the willingness of the Armenian authorities to really cooperate with civil society.

The Strategy Program includes the Action (Implementation) Plan. Both the Strategy and the Action Plan have serious drawbacks. They make an impression of 2 separate documents, not always related or consistent to each other. For example, in the Program there is no reference to the field of environment, but in the Action Plan several activities related to the field are indicated (see Points 4.28-4.30). The same is true for the issue of credits and grants that are mentioned in Point 4.39 of the Action Plan, but are not mentioned in the Program.

The Strategy Program has a declarative nature and refers to only some of the problems and manifestations of corruption. There is no mentioning of, for example, military, earth quake zone, vote-buying, violations of urban and environmental norms, and other problematic issues. The dangerous consequences of corruption in terms of political, economic and social development of the country are not introduced in the Strategy Program.

The following are mentioned as the main directions in fight against corruption: increase of public consciousness on the level of harmful consequences of corruption, prevention of corruption and the prevalence of the rule of law aimed at the protection of human rights (see *"Official Bulletin"* #60 (295), December 10, 2003, p. 284). Though this is generally complimentary with the three main components of anti-corruption policy (education, prevention and detection), the Action Plan does not follow this logic.

For instance, the Plan does not include concrete activities aimed at exposing and punishing corrupt practices in various fields and does not indicate measures for their publicity, though such activities are emphasized as important in the first part of the Program (see *"Official Bulletin"* #60 (295), December 10, 2003, p. 282). As for the exposing and publicizing of the corrupt practices through the internal control, probably, the activities mentioned in Point 4.11 concerning tax system, are assumed to be considered as such. However, it is not clear why such activities are not planned to be realized at the customs as well as in other fields.

The need for an independent control and review body for the effective struggle against corruption is not stressed in the Strategy Program. The section on political corruption is very weak. In that section, issues related to parties, observers and voting-lists are highlighted, but there is not an indication of using administrative resources in the advantage of some candidates or parties during elections. It is not clear why in this section the issues related to the local self-government are mentioned, while a separate section should have been devoted to the problems in the filed of local and regional government system in Armenia. It must be also noted that the activities in the field of local self-

government are limited in the Action Plan by Points 4.40 and 6.3, which concern to the community budget monitoring and introduction of municipal service.

As to the problems in the economic field, only taxation, customs, education, health, state finances and property, as well as privatization, are included in this part of the Program. The measures directed at reducing shadow economy do not relate to wide-spread protectionism, privileges given to certain businesses, conflict of interest, generation of capital and income of state officials due to abuse of their positions, etc.

Part 5 of the Strategy Program dedicated to the law-enforcement institutions as well as the corresponding activities in the Action Plan consider improvement of technical capacity, remuneration and social welfare, professional development of the staff, and development of the Codes of Conduct. Meanwhile, there is no reference to the control mechanisms of the activities of the law-enforcement institutions. The same approach is used with regard to the judiciary. Though the Program notes that "the independent judiciary is one of the main tools in the fight against corruption" (see *"Official Bulletin"* #60 (295), December 10, 2003, p. 296), the Action Plan lacks the activities aimed at ensuring the real independence of the judicial system in Armenia.

The Program does not indicate who and how must coordinate its implementation. Neither the Anti-Corruption Commission under the Prime Minister is mentioned, nor a new coordinating and/or control body is to be established. The Action Plan lists only the responsible implementing institutions/actors, which are mostly the Government or certain ministries.

Action Plan consists of more than 90 activities, out of which only 5 are foreseen to be regularly implemented (see Points 1.2, 2.2, 2.3, 4.11 and 8.4). The rest of activities are planned to be completed in 2003-2007. However, it is not clear if after the year of 2007 a new program or action plan will be developed or not.

One of the most serious weaknesses of the Strategy Program is that the planned activities mostly include development and adoption of new legislative and sub-legislative acts, strategy programs and concept papers, and only in 21 points they are of a different nature. Taking into consideration the ineffective implementation of the existing legislation, it can be assumed that the new laws and procedures are unlikely to be enforced in a more effective manner. In fact, the importance of the law enforcement is emphasized in Point 3.3 of Part 3 of the Program. Increasing public awareness through mass media coverage, as well as ensuring control over the implementation of the legislative acts are mentioned in the Strategy program as necessary preconditions for the effective law enforcement (see *"Official Bulletin"* #60 (295), December 10, 2003, p. 287). However, the Action Plan has very few of such activities.

Finally, participation of other interested institutions/actors in the development of the legislative and sub-legislative acts is neglected, though it is mentioned in the Program that "… the participation of the NGOs in the development stage of the legal acts is especially essential" (see *"Official Bulletin"* #60 (295), December 10, 2003, p.283). Basically, NGOs are indicated as responsible implementing institutions only in 6 cases (see Points 1.2, 1.3, 5.4 – 5.7) related to awareness raising, education and monitoring activities.

Concrete mechanisms aimed at ensuring the "state-public" relation are very limited. For example, the Program mentions the importance of the public complaint mechanisms (see *"Official Bulletin"* #60 (295), December 10, 2003**,** p. 295), but in the Action Plan the complaint process is noted only in terms of the protection of tax-payers (see Point 4.10). Or, it is not clear how the Public Relations Departments of the Ministries will ensure the control over the public services being responsible for that activity (see Point 6.10). Another example is that parliamentary hearings are mentioned in the Strategy Program as the most effective way of public participation, though this mechanism can be hardly considered as such given the absence of relevant practice and experience.

Taking into consideration all mentioned above, it is critical to revise the Strategy Program and Action Plan, in close cooperation with all interested parties.

Donor Activities and Cooperation

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

A number of donor organizations funded participation of the Armenian delegations in various anti-corruption conferences and workshops (USAID, DFID, German Embassy, OSI-AFA, etc.). There are numerous other projects that are worth mentioning, since they either incorporate anti-corruption elements or promote some anti-corruption measures. Below is the list of the relevant programs for the last five-seven years (donors are presented in alphabetical order):

DFID

- Public Service Reform Program - by PA International and PriceWaterHouse Coopers (1999-2007);
- Regional Development Program /in Tavush and Gehgarkunik Marzes/ – by Oxford Policy Management (2003-2007);
- Assistance to the Customs and Tax Authorities - by HM Customs @ Excise (1998-2000);
- Assistance to the Prime Minister Office – by PA International (1997-2000);
- Citizens Advice Bureaus /in Yerevan, Gyumri and Kapan cities/– by PA International (1999-2000).

GTZ

- Promoting of Local Authorities (1999-present);
- Promoting Communities Development (2001-2003);
- Consultancy on Legal System of Armenia (2001-2003);
- Consultancy on the PRSP Development (2002-2004);
- Assistance to the Development of the CoC of the NA (2003-2004).

OSI/Assistance Foundation – Armenia

- East-East Program /hosting workshops and conferences, supporting participation of local specialists in international projects, etc./ (2000-present);
- Civil Society Program /furthering human rights, civic education and NGO development/;
- Law and Criminal Justice Program /promoting legal education, access to justice, penitentiary reform and transparency/anti-corruption/;
- Mass Media Program /ensuring independent and professional media, freedom of and access to information/;
- Information Program /providing access to information, new communication and education technologies, etc./ (1999-present).

SDC

- E-Governance System in Armenia – by UNDP /Yerevan city and 10 Marzes/ (2002-2004);
- Caucasus Media Development Institute – by Cimera (2001-2004).

TACIS

- Support to the NA – by GTZ (2002-2004);
- Civil Service Reform – by Rambol PLS (2000-2002);
- Strengthening of Regional Development /assistance to regional administration in Lori Marz (2000-2001);
- Legal Approximation – by AEPLAC (2000-2001);
- Economic Policy Advice – by AEPLAC (2001-2002);
- Assistance to Post-Privatization and Private Sector Development /building local capacity in accounting, finances, management, etc./ (1999-2002).

The World Bank

- Development of the National Anti-Corruption Strategy (2002-present);
- Armenia Third, Fourth and Fifth Structural Adjustments /improvement of business environment and development of private sector, reform in public administration and budget management system, and advancement of social sector/ (1998-2001, 2001-2003, and 2003-2004);
- Judicial Reform Project (2000-2004);
- Development of the Poverty Reduction Strategy (2001-2003);
- Public Sector Modernization Project /civil service reform, modernization of ministries, agencies and services, reforms in public procurement and audit systems, etc./ (2003-2008);
- Civil Service Assessment (1998);
- Institutional and Governance Review (2001);
- Survey on Public Sector Reform (2001);
- Business Environment and Enterprise Performance Surveys, in cooperation with EBRD (1999 and 2002).

UNDP

- Support to National Decentralization Policy (2002);
- Local Self-Governance Strengthening Project: Policy Review and Capacity Building for Municipal Service (2003-2004);
- Supreme Audit Institution /strengthening the check and balance system/– (1996-2000);
- Support to Democracy and Good Governance /assistance to the electoral processes/ (1999-2000);
- Support to Local-Self-Government (2002);
- Integrated Support to Sustainable Human Development – by UNOPS (1998-2002);
- Support to Information /promoting e-governance in Lori Marz/ (2001-2003).

USAID

- Tax, Fiscal and Customs Reform – by Bearing Point Inc. (2001-2004);
- Tax and Fiscal Reform – by Barents Group of KPMG Consulting LLC (1998-2001);
- Legal and Judicial Reform – by ABA/CEELI (1994-2003);
- Citizens Awareness and Participation – by IFES (2000-2004);
- Independent Media and Broadcast Development – by Internews (2000-2004);
- ProMedia – by IREX (1999-2003);
- Global Training Development for government officials, NGOs and private sector representatives – by AED (1997-present);
- Grant and Loan Program for NGOs and small and medium businesses /to support projects in the fields of civil society, public administration and policy, and private enterprise development/ (1997-present);
- Political Process Reforming – by NDI (1997-2004);
- Local Government Assistance Program – by Urban Institute (2000-2003);
- NGO Strengthening Program – by World Learning for International Development (2000-2004);
- Legislative Strengthening – by DA/DAI (2000-2003).

As to donors' coordination in the field, there is the Joint Task Force formed upon the initiative of the OSCE Office in Yerevan that includes the representatives of the main donors and diplomatic missions such the WB, IMF, USAID, UNDP, DFID, EU, CoE, EBRD, SDC, as well as the US, British, German, French, Italian and Russian Embassies. As mentioned by representatives of diplomatic missions and donor organizations, the regular meetings of the Joint Task Force members helped them avoid duplication of efforts, ensure more effective use of resources and have a greater influence on the Government than in the case of individual intervention[139]. In July 2003, before he moved to Georgia to lead there the OSCE Mission, Head of the OSCE Yerevan Office, Ambassador Roy Reeve was granted a CRD/TI Armenia Award for outstanding contribution to the development of anti-corruption movement in the country.

After adoption of the National Anti-Corruption Strategy, donor coordination is becoming a more critical issue to ensure the effectiveness of foreign assistance in the field.

Discussion of Key Issues

The NIS

As it has become clear from the above description and analysis of the NIS pillars in Armenia, none of them functions efficiently. Experts and the general public perceive corruption as both cause and consequence of the current state of affair. Since 1998, the Armenian NA has passed a large number of laws, which were supposed to have a positive effect on the functioning of the NIS. The President and the Government has passed various Decisions aimed at providing working mechanisms for the implementation of the new legislation. It would be fair to say that the majority of legal acts are attempted to meet international standards and create a legal basis for promoting democracy and market economy, with the dominance of the rule of law, not the rule of authority. Most of them were drafted with assistance of foreign experts and or/and under the pressure of international community.

However, their implementation, at best, is inadequate and, at worst, produces results exactly opposite to the expected ones. These mutually exclusive trends can have rather dangerous consequences for the development of the country. They negatively affect the reform process and discredit the very idea of democracy. Changing the forms of governance to fit with the requirements of the Council of Europe and other international organizations, is not accompanied with the changes of the content of the governance, which still remains authoritarian, blended with "immortal" traditions of Soviet *nomenklatura.* Such developments lay a ground on which the seeds of cynicism and nihilism flourish. More radical opposition forces could use the given situation to trigger social unrest, which will make the current situation in the country even more difficult.

The other trend is increasing concentration of political and economic power in hands of a small group of people. The further coalescence of big businesses and ruling political parties also negatively affects the NIS functioning. Many high ranking officials, especially from the Executive branch, are directly or indirectly involved in various business activities. More and more oligarchs are becoming members of the NA, thus, acquiring power to influence the lawmaking. Such trend weakens many NIS pillars by making them susceptible to capture by special interest groups and consequently creating more opportunities for grand corruption. It also "infects" the party and election systems, as opposition parties lacking sufficient financial and organizational capacity would never be able to challenge the ruling elite. This forces ordinary people to think that it is impossible to change the regime and thus alienate them from policy processes.

According to the CRD/TI Armenia survey results[140], more than 56.2% of households, 49% of businesses and 43.5% of public officials considered the President and the Prime Minister Offices, as well as the Ministries and other executive bodies as corrupt, with the Ministries in the leading place for all interviewed groups. The overwhelming majority of respondents think that corruption is initiated in Armenia by the state authorities.

Basically, factors influencing the NIS functioning in Armenia can be categorized into two groups. The first group includes the problems having a systemic character. Influencing the macro level, namely, the NIS system as a whole, they are common for all pillars and seen as derivatives of the political, ideological and cultural background of the contemporary Armenian state and society. These factors relate to the general trends, forms and mechanisms of corruption in Armenia. The second category involves pillar-specific factors. They vary from one pillar to another being common for two or three of them, and therefore have a limited impact on the NIS system as a whole. For this reason, the discussion below will focus on the first category of problems, as the factors of the second category have been discussed in the narrative section.

The key systemic factors hindering the effectiveness of the NIS pillars in Armenia are: the absence of political will, the lack of independence and autonomy of pillars, imperfect legal

framework and poor law enforcement, the lack of adequate financial, administrative and human capacity, low level of public participation in policy decision-making, as well as historical and cultural aspects.

Absence of Political Will

It is widely recognized all over the world that the fight against corruption can only be effective if there is political will to root out that evil. True political will implies not only the adoption of the National Anti-Corruption Program or the membership in numerous international networks and organizations, but also strong condemnation of corrupt practices and evident intolerance towards everyone's corrupt behavior irrespective of his/her position and income. As described in previous sections, there are no evidences of such manifestation of political will in Armenia.

As indicated by the NIS study results, no serious steps have been undertaken to punish senior corrupt officials responsible for the illegal practices. Normally, low and medium level officials are prosecuted for corruption-related cases. Often, those publicly accused in corruption are never brought to the court. A few senior officials were accused after dismissal from the office, which made people consider those accusations as political repressions. The Opposition claim that the real motives of such prosecution were to get rid of political opponents possessing "blackmail" information concerning a large number of the current politicians. Also, the fact that many high-ranking officials of the previous regime, who were viewed by the public as very corrupt, not only avoided the punishment but even remained in the same or equal positions, leaving the previous ruling party, the Armenian National Movement, to join other parties or forming new ones, leaves no hope that current authorities are interested in detecting corruption and increasing the risks of illegal behavior.

Another evidence of the lack of political will is that Armenian authorities are still reluctant to provide access to information for media, NGOs or citizens. Information is considered as a good that can be sold or exchanged. Rent seeking, nepotism, cronyism and clanship are a common practice in the Armenian governance system. The absence of strict control and punishment mechanisms weakens legal provisions ensuring accountability of senior state officials. For example, setting a low fine for not submitting declarations of assets and income simply helps high officials hide the real "picture". They would definitely prefer to pay that symbolic fine rather than disclose their actual "earnings".

Everybody knows that the main income and assets of the state officials are registered as owned by their relatives. In a small country such Armenia people have numerous informal networks, so it is almost impossible to hide the owners of luxury houses or cars, hotels, restaurants, casinos. However, appropriate state institutions do not start investigations to reveal "hidden" sources of income of state officials.

Lack of Independence and Autonomy

The NIS study reveals that, in fact, all key institutions in Armenia lack independence and autonomy, despite appropriate legal provisions. Analysis shows the heavy dependence of all NIS pillars on the Presidency and the Executive. Actually, there is neither political and financial decentralization, nor separation of power, with effective check-and-balance mechanisms. Misbalance of power, with two powerful institutions - the Presidency and the Executive - results in domination of these two over all others. De-jure and de-facto immunity of those dominating institutions excludes both counterbalance and mutual support of the pillars and thus inhibits their effectiveness.

Though the Constitution gives executive power to the Government, it is the President of the country who heads and leads the Executive. According to the results of the World Bank Institutional and Governance Review[141], the Executive of Armenia, in fact, consists of the strong Presidential system with the elected President and the Government appointed by the latter and thus highly dependent from the President. This is to describe the Government as "a relatively weak institution within the strong executive branch"[142].

The President can directly or indirectly (through the Government) appoint to and remove from not only almost all political positions (except the NA members), but also control most of the discretionary and other positions thus making dependent a large number of high and medium level officials in various branches at all levels of the government system. This situation is pre-determined by the Armenian Constitution and other legal acts that give enormous power to the President of the country, whose power is not balanced.

It has been earlier mentioned that the first Coalition Government in Armenia was formed by three parties that won the majority vote and supported the President during elections. The opposition and those pro-governmental parties that lost the elections are excluded from the executive power for a long period of four years. Being under the strongest patronage of the President, the Executive takes over other pillars. It is the Executive that coordinates the implementation of the reform processes and negotiates with international financial institutions and donor organizations. It is the Executive that allocates the state money and manages the state property, takes most legislative initiatives in Armenia and controls the election processes at all levels. It is the Executive that concentrates in its hands both political and economic power, intervenes in the activities of both state and private institutions and enjoys impunity, de-jure in the case of the President and de-facto in the case of the Government.

The Legislature has almost no instruments to balance power of the President and the Executive. So far, however, there has been not a single precedent of the resignation of the entire Government caused by the vote of no confidence, though the Prime Ministers have been changed quite often by the previous and current Presidents, with parallel new appointments to some key ministerial positions. The majority in the NA normally supports the incumbent President, given the fact that the President, along with the entire state apparatus, is seen to have helped them be elected. The President has power to dissolve the NA (not during the first year and last six months of his/her office as well as not during the initiation of his/her impeachment). Likewise, the Judiciary has no actual power to counterbalance the Executive because of being very dependent from the latter. The President of the country has exclusive power to appoint and remove all judges and heads the Justice Council, the members of which are also appointed by him/herself.

Imperfect Legal Framework and Poor Law Enforcement

As noted above, though the legal framework for some NIS pillars is not bad, still there are a number of legal deficiencies related to each pillar. Some of those deficiencies are common for all or almost all pillars and negatively affect the functioning of the NIS as a whole. First of all, they determine the lack of independence, both political and financial, which mainly refers to the Constitutional provisions, according to which the President has power to appoint, dismiss or promote judges, prosecutors, high police officials, etc. As a result, provisions declaring the independence of the given institution become declarative.

For example, the Constitution explicitly declares independence of the Judiciary in one article, but by the other one empowers the President to appoint and remove judges. Another example of deficiency is the fact that the Government has the power to dismiss a popularly elected Head of Community, thus depriving local self-government bodies to govern themselves. Or, the power given to the President to appoint all members of the NCTR, which issues licenses to TV and Radio Companies, is a determinant of restricting independence of media.

Another area of concern is that the legislation fails to provide with effective mechanisms to control conflict of interests, gift giving and hospitality, donations to political parties, election funds, disclosure of income and assets of state officials, etc. There are no effective control and punishment mechanisms to punish those officials who break the law. Symbolic fines for hiding accepted gifts or real incomes cannot prevent officials from lawbreaking.

Without effective law enforcement no reforms could have been successful. Poor law enforcement causes the current state of affairs when even good laws are simply disregarded. While an increasing number of new laws are adopted in Armenia, nobody monitors the implementation of the adopted legislation. Likewise, there is often no time to

prepare a new or revise an old secondary legislation after adopting the main laws. Legal reforms assume sufficient institutional capacity, which is not in place in Armenia.

Lack of Administrative and Human Capacity

Any NIS pillar can effectively function only if it has required capacity. Financial, technical and human resources are necessary conditions for the functioning of all institutions. In other words, each institution must be adequately staffed by professional and devoted individuals, sufficiently funded and well equipped.

Today, due to the economic hardships the funding of NIS pillars is not adequate. The main sources of funding are the state budget or community budgets, or customers. Insufficient funding results in the lack of the required equipment and poor working conditions. For this reason, the Police and the Prosecution lack modern equipment for crime detection, the court buildings are not renovated, tax and customs officials do not have advanced computer network, etc.

Another problem is low salaries of the state employees making working in the public sector unattractive and forcing most of them to take bribes or abuse their powers. As provided by the legislation[143], the monthly salary of the President of the country is 400,000 AMD (about $714), the Prime Minister and the Chairman of the NA earn 340,000 AMD (about $607), the member of the NA – 300,000 AMD (about $535). In the meantime, according to experts of the Association of Community Finance Officers, the average salary of the Heads of Communities are 100,000 AMD (about $172) in cities and towns, and can be equal to 50,000 AMD (about $86) in rural communities.

Inadequate remuneration determines the low level of professionalism of the employees of the state institutions. Skillful professionals either quit their jobs or become less demanding towards themselves and their colleagues. Competitive, merit-based appointment and promotion as well as job security are not ensured in state institutions in spite of the existence of appropriate regulations. State officials are often incompetent and inexperienced. Administration staff sometimes lacks elementary knowledge and basic skills. Training and career development are not paid due attention.

Low Level of Public Participation

The level of public participation is rather low in Armenia. As already mentioned, most of the parties exist only on paper. Even the most active and strong parties have weak local branches. Ordinary people are not involved in the party politics. Among the reasons, the most important ones are the current difficult social and economic conditions, which force people to devote almost all its energy and time to solve survival problems. Other reasons are disappointment, disillusionment and disbelief of the majority of population that something can be changed through their participation in the politics. Since 1995, it has been the reflection of the bitter experience of the society from the elections, none of which complied with the international standards.

An important determinant is the tenacity of the Soviet-period stereotypes about politics and politicians. These stereotypes include the negative image of those who in Soviet period were choosing the political career, meaning at that time paid work in local or central organizations of Communist Party. They were mainly perceived as professional “go-getters” who use any means to reach the top of the career ladder. Another stereotype is that involvement in politics can be dangerous or harmful, which was formed by historical memory of Stalin epoch, when politically active part of population was repressed or killed.

Also, the false belief in the “generous king”, who will resolve all problems and release people from the responsibility of making decisions, is strongly rooted in the minds of ordinary Armenians. That is why the majority of respondents believe that the institute of the Presidency can play a determining role in reducing corruption in the country[144]. In the meantime, only 30,25% of households and 42% of business representatives think that there is political will to fight corruption in Armenia[145].

There are no efficient mechanism of public participation in the daily activities of the Legislature and the Executive. The culture of lobbying is still to be developed. Very few

members of the NA regularly meet with their constituencies. Access to information and documents from state institutions is limited, though there is some progress in ensuring one-way communication through providing information to the public without expecting any feedback from it, for example, publishing adopted legal acts. At large, the public has no opportunity to raise its voice and be heard by the authorities.

The NGO sector is more active, but also not allowed to participate in the decision-making. The authorities do not consider NGOs as partners and cannot accept the idea of opening the area of public administration and policy making to outsiders, with other work style and behavioral patterns. Yet, not very many NGOs have enough level of maturity and competence to make a significant contribution to the policy processes. In the meantime, most of existing civil society organizations can effectively participate in organizing public hearings and debates, increasing citizens' awareness, conducting educational and training programs, providing some services, implementing advocacy and lobbying projects, etc.

At the first glance, it seems that, at least, the Armenian media actively participates in the politics. However, being partisan and lacking professionalism, media outlets make their participation not very efficient, as information they provide is oftentimes biased and selective. Therefore, their actual influence on decision-making concerning important policy issues remains very limited.

Historical and Cultural Aspects

Through centuries, Armenia has been under the rule of other states, the most recent of which were the Russian and Ottoman Empires. The negative phenomena common to these empires such as authoritarianism, corruption, violation of human rights were even more widespread in their remote provinces such as Armenia. As the Christian minority, Armenians were typically oppressed under the Ottoman rule, with the majority of Muslim population.

The situation has not been radically changed during the Soviet regime. To some extent, the ideas of social egalitarianism underpinning the Marxist-Leninist ideology had a positive impact on the population making it intolerant to social inequality. Also, Armenia inherited from the Soviet period well-developed systems of education, health, science and culture, which made it different from most developing countries. A great number of qualified and hard working individuals might significantly contribute to the development of the country after gaining independence.

However, the loss of belief in Marxism and Leninism among Armenians during the Brezhnev's stagnation era transformed into political cynicism, which flourished during 1970s and 1980s. Cynicism and frustration laid a fertile ground for the tolerant attitude towards abuse of power. In addition to this, serious mistakes made at the beginning of the independence era of 1990s during the processes of liberalization and privatization deepened disappointment of people. Some were allowed to become rich, but nothing was done to restrict unfair enrichment and ensure social equity. This led to the situation when everything seemed to be easily bought and sold. Extreme liberalism without social responsibility and absence of safeguards to protect socially vulnerable groups adversely affects the societal values.

Corruption became a part and parcel of every day life of people. Public officials do not stop taking bribes, since the political elite continues benefiting at the expense of the poor. Representatives of middle and low businesses do not respect the law, because they see that a small group of wealthy businessmen enjoys the privilege of being protected by high-rank officials. Ordinary citizens do not believe that the authorities are willing to promote the rule-of-law, as they witness political machine corruption during elections. That is why they see corruption as the only way to get things done in Armenia.

Effectiveness of Government and Donor Activities

It is quite hard to assess the effectiveness of the anti-corruption Government initiatives in Armenia because not much has been specifically done in the field. With respect to the Anti-

Corruption Strategy, some journalists and experts argue that the anti-corruption initiatives have been undertaken by the Armenian Government only because of the pressure of international community. They state that there is neither political will nor institutional capacity to really fight corruption in Armenia[146]. It has been also assumed that those who are corrupt themselves are not able to fight corruption, thus, the declared war against corruption has a purely declarative nature. Some civil society leaders are also skeptical about the effectiveness of the Strategy, especially with regard to possible public participation and monitoring.

As to the public sector reform as a whole as well as other relevant programs, their ongoing nature and the absence of appropriate analytical data do not allow making well-grounded assessments. Public opinion surveys are not conducted on a regular basis to make a comparison of the level of satisfaction of the public service customers in 1999 and 2003. Citizens' complaints about the quality of public services and the performance of state officials are not registered and summarized either. Pro-government and opposition media usually have extremely different opinions on the progress of reforms. High government officials typically share an optimistic view on the implementation of reforms, while donors' opinion vary depending on a program, field, counterpart, etc. As to citizens, they are mostly distrustful about any government initiative because of the absence of radical improvements of socio-economic conditions.

Some experts even claim that the public sector reform will contribute to the formation of more centralized and hierarchical system than it was before. Moreover, they believe that the downsizing of the Government will eventually generate a new army of the unemployed and thus lead to social tension. However, the legal provisions promoting more transparency, accountability and professionalism within the sector can be definitely considered as rather progressive compared to the previous laws and procedure regulating the field of public administration. The problem is that they are not being consistently implemented.

In attempts to present various viewpoints on the donors' role in the reform process directed at promoting good governance, a series of interviews were held with representatives of state institutions, political parties, international organizations, NGO sector and academia. All interviewees see some positive outcomes of the reforms. These are as follows: the existence of the legislation drafted in compliance with western standards; adoption of more simplified procedures, for example, in tax and licensing systems; provision of better access to information through official and unofficial publications, governmental and non-governmental websites, etc. Introduction of the Civil Service, Police Service, Tax Service, Customs Service and others, with the elements of merit-based appointment and promotion, job security, legal and social protection of employees, etc., along with the downsizing and restructuring of the Government, is another positive trend, in their opinion.

The fact of disclosure of assets and income is also seen as a step towards more transparency and accountability of public officials. Some think that a large number of training programs and study tours have contributed to the creation of a pool of knowledgeable state officials, NGO and media representatives, who can facilitate the process of reforms. Others state that computerization of state institutions and education institutions, especially in regions, introduction of advanced technologies (particularly, in the filed of communication), privatization of many spheres of economy, made provision of some services more effective.

In the meantime, the majority claims that the ongoing reforms are donor-driven and the Government is simply forced to implement them under the pressure of international community, and in particular, that of financial institutions. Representatives of oppositional parties and media, most NGO leaders and the majority of population do not see any evidence of the commitment of current authorities to really increase transparency and accountability of the governance system in Armenia. Such a negative opinion became stronger after the 2003 elections accompanied by illegalities and violence.

Therefore, average citizens assume that international assistance provided to the Government simply fuels corruption in state institutions and let a small group of political

elite and business oligarchs to be better off at expense of the poor that constitute about 50% of population. The overwhelming majority of households, businessmen and even public officials think that corruption in Armenia is mainly initiated by state institutions[147]. That is why people are wondering why donors keep providing financial assistance to those who initiate corruption in the country. On the other hand, very few of them are aware that a part of donors' assistance regularly fills gaps in the state budget and makes the Government able to pay salaries and pensions, renovate schools and hospitals, deliver other public services, etc.

Though normally public officials make public statements about success of reforms, during individual interviews many of them admit that, overall, reforms failed to promote good governance in Armenia. They point out that, to a great extent, it is the donors' responsibility as well, since the latter did not pay due attention to the lack of institutional capacity to implement the ongoing reforms. There is a widespread opinion that donors draft and promote their strategies and programs without taking into consideration the environment where the reforms will be undertaken.

Oftentimes, donors simply bring successful methodologies to the country in attempts to replicate them. One of the interviewed high government officials noted that donors did not succeed in assessing the real needs and capacities, adjusting their strategies to the local reality as well as learning from their negative experience in Armenia. Some experts mention that, oftentimes, foreign consultants and team leaders whose remuneration forms a substantial part of the project budgets lack competence in the field or/and are not familiar with the region specifics. Donors, in their opinion, do not trust local specialists and thus rarely rely on local "know-how".

While being interviewed, one of heads of diplomatic missions stated that there is no consensus among donors on how to re-direct reform processes, since the donor community is quite diverse and everyone favours his/her country or agency priority (interests). He pointed out that donors use a rather dogmatic "make-up" approach instead of surgical treatment of the "body" infected by corruption. It has been also said that an attempt to start the fight against corruption in the country failed because there is no actual ownership. Neither the Government, nor the Armenian society is willing to take personal responsibility for the anti-corruption "battle".

As a representative of one of the key donor organizations located in Armenia indicates, assistance providers have to report about their successes to their board of directors in order to ensure the next portion of funding. They are not interested in criticizing themselves or their counterparts from the Government to secure a positive evaluation of the completed projects and good recommendations for the future ones. Donors do not carry out a regular monitoring and serious assessment of the performance of the staff of local offices and the projects they funded. Thus, assistance providers, ironically, do not meet professional and ethical standards they introduce and promote in Armenia.

As a result, in spite of the existence of a number of rather advanced laws, mostly drafted with help of foreign experts, there are no law enforcement and control over their implementation. A secondary legislation is not complete, and, in many cases, either contradicts the main laws or does not comply them. There are many evidences that effective law enforcement agencies and capable policy implementing institutions have much stronger impact on the reforms than the practice of adoption of good laws. The EBRD research revealed that "the orthodox approach to legal reform, where laws are developed first and implementing institutions strengthened second, needed to be reconfigured, with greater and earlier attention given to implementation and institution building"[148]. It has been also said, "good laws cannot substitute weak institutions"[149] in transition economies, which is true for the Armenian case as well.

State officials at all levels of government are still making arbitrary decisions, interpreting the laws in the manner they find more appropriate and acting non-transparently and often illegally. The absence of accountability and the actual de-facto impunity of those in power make legal reform ineffective. In their turn, people cannot accept the reforms as successful, since they mainly associate the success with visible improvements of their socio-economic conditions. Very few of them justify the failure of reform by the fact that

moving towards better governance and ensuring economic growth take a long time and requires a lot of efforts and resources. Therefore, they do not want to participate in the reform process.

Another shortcoming of reforms is that they are not being implemented through an open and participatory manner. The reform processes are not transparent and inclusive for various reasons. On one hand, government officials did not consider civil society representatives as equal partners who are capable to contribute to the drafting and implementing policy reforms. On the other hand, the NGO sector had no capacity to significantly influence the reforms; small and medium businesses try to survive; monopolists benefit from the state protection, media lack independence, etc. Though there was some public participation, for example, in the process of drafting of PRSP as well as few laws, it was insufficient to ensure the legitimacy of reforms.

The limited information about donors' assistance, instances of unprofessional or corrupt behaviour of individual representatives of some international organizations, combined with the lack of transparency in resource allocation negatively affect the public perception of foreign assistance. There are many talks about special funds used by contractors to bribe donors and counterparts within the Government. Likewise, rumours are circulating about NGOs bribing those who are responsible for selection of grantees in donor organizations.

It is well known that many state officials have their own, or are linked to, other NGOs and private companies, so they influence donors' decision-making in order to get grants or sub-contracts for their "protégés" and eventually ensure alternative source of income for themselves. Many NGOs and private companies share grant or sub-contract money with certain state officials representing interested institutions to ensure their support. Another concern is that there is a group of ""elitist" NGOs that have no troubles with fund raising, as donors demonstrate a preferential treatment to them, whereas the rest of civil society organizations desperately seek for financial support to implement their projects.

Priorities and Recommendations

It should be emphasised that the building of political will and local ownership of reforms are the most important pre-requisites for the success of reform processes. Both of these areas are gradual processes achievable when the top-to-bottom strategies are combined with bottom-to-top ones and infused with public participation to capture and sustain the momentum of political will. To ensure all this, it is vital for donor community to better understand country specifics, rethink assistance strategies, and use most applicable mechanisms successfully implemented in other countries.

Thus, the role of donors is becoming increasingly important for ensuring effectiveness of anti-corruption initiatives in Armenia. Donors should first jointly assess their past and current strategies and programs directed at promotion of transparent and accountable governance in order to reveal the main reasons of their ineffectiveness. Such studies have been earlier conducted by individual donors, but have been mostly for internal use.

Those data should be presented to the key stakeholders for a broad discussion. Based on the results of such evaluation, anti-corruption donor's strategies for Armenia should be redesigned to better reflect the country specifics. Prior to that, donors, in partnership with local experts, should conduct adequate needs assessments. While forming the project teams, donors should consider only those foreign specialists who have enough competence and work experience in the region.

It is recommended to form groups of donors who have common experience and interest in a particular field or sector. Thus, looking through the list of donor-funded projects presented above, it is possible to identify some areas where donors can cooperate. For example, the WB and DFID can focus on the public sector reform, while USAID, OSCE, CoE and OSI – on reform in the election system. Local government and regional development is of a common interest for the WB, DFID, GTZ, UNDP and USAID. The WB, DFID, USAID, and EU promote tax and customs reforms. GTZ and USAID are funding projects focusing

on the strengthening of the Legislature, whereas USAID, SDC and OSI supported media-related projects.

Donors' coordination and cooperation are easier to provide around specific activities rather than concerning general issues. A network specialized on elections has been formed by the OSCE Yerevan Office before the 2003 elections in order to involve all interested donors and international organizations. The network members regularly meet to share information and exchange ideas and thus to a certain extent coordinate their efforts. This can serve as a good model of coordination among donors that can also lead to the initiation and implementation of joint projects. The Joint Task Force under the OSCE Yerevan Office can identify common interests of donors and serve as an umbrella for similar networks.

Some interviewees stress that the Government should more seriously consider cooperation with and support to such donors' networks and groups as well as the Anti-Corruption Joint Task Force as a coordinator. It is also very important to brief the public on any development related with such coordination and cooperation to increase credibility of assistance providers. Donors and international organizations as a whole should better publicize their strategies, programs and activities to reach a broader audience. While doing so, it is highly recommended to provide information in native language as well.

Choosing contractors, partners or grantees should be made in a more transparent and competitive manner, through widely advertised bidding and grant program competitions. Inviting people from outside – experts, NGO leaders, journalists, etc. - to participate in selection process will bring more openness and fairness to the allocation of available funds. Local offices and their staff should be subject to regular internal and external monitoring. Customers', counterparts' or partners' complaints should be registered and followed-up. The results of monitoring – the revealed improper behavior or unsatisfactory performance of the staff members, both local and international, that affected the outcomes of the programs or led to economic and moral losses - should be publicized. Donors should demand more transparency and accountability both from their counterparts from the Government and contractors.

Another topic for further research that can be carried out, along with capable local NGOs, is evaluation of political, economic, social and human costs of corruption to demonstrate the authorities and citizens what they should expect while tolerating corruption. The results of the research can be used both during consultations with the state authorities regarding the path of reforms and the nationwide public awareness campaign.

The issue of the first priority is promoting law enforcement and increasing risk of corruption, in parallel with improving the existing legislation and bringing the secondary one into conformity with the main laws. Though a number of new laws and regulations are still needed to develop, the main focus should be made on the implementation of the existing legislation. Among the priority issues to be regulated are: introduction of municipal service; independence of judiciary, prosecution, and police; strengthening of the supreme audit institution; promotion of freedom of information and independence of media; ensuring public participation in decision-making; controlling disclosure of assets and income for all public officials; providing transparency of decisions made at all level of government; prevention of conflict of interest, nepotism, cronyism; mechanisms ensuring accountability of public officials; political and financial decentralization; etc.

More effective mechanisms of ensuring fair elections through strengthening the party system, making electoral commissions more accountable to the public and giving more rights to proxies and observers are also vital to adopt. Serious efforts should be made to stop absorption of small and medium companies by monopolists and further concentration of political and economic power in hands of a small group of political and economic elite. Anti-monopoly legislation needs to be enforced as well.

It is a vital necessity to make changes in the Constitution in order to secure the check-and-balance within the government system in Armenia by vesting more power to the Legislature and granting more independence to the Judiciary, thus ensuring true separation of government branches. The President's power is to be limited to prevent domination of the Executive over other institutions. The CoC should become an independent institution to be able to really perform functions of the Supreme Audit.

Strengthening institutional capacity is the next, not less important, priority for ongoing and future reform programs. Generally, a multidimensional approach is needed to introduce the NIS in Armenia. Only through systemic changes in the existing political and economic settings a genuine good governance system can start functioning in the country. The system should be based on the principles of morality, integrity, respect to human rights, free and fair competition in all spheres of economy and politics, as well as transparency and accountability.

For this reason, all institutions need to be made efficient in order to ensure their effective interrelations. Not only the Executive, Legislature, Judiciary, political parties, election system, supreme audit institution, Judiciary, civil service, police and prosecutors, local government and other pillars should be paid due attention, but civil society and media as well. Civil society strengthening is vitally important to enhance public participation in the policy and political decision making processes. The public should demand more transparency and accountability from the authorities and more independence and autonomy of all institutes of the society and the state. This can be done through establishing permanent mechanisms of public consultation such as public hearings, report cards, community advisory councils, etc., for giving “a voice” to people.

Local capacity building will enable civil society to become a capable partner in policymaking, legal drafting, advocating, lobbying and, especially, monitoring the implementation of government activities. NGOs should become less dependent from donors’ support and seek for alternative sources of funding. The Government and businesses are potential NGO supporters in many countries, which is not the case in Armenia. However, the NGO sector can start delivering some paid services to ensure its sustainability. Special attention should be paid to strengthening NGOs located in regions, since they have much less opportunities to survive in competition with more advanced and informed organizations from Yerevan City.

The public awareness and education are also critical for broadening support to the reform efforts. Donors should allocate more money for such projects to involve more people, particularly students and young professionals, in anti-corruption movement in Armenia. The role of media and, specifically, investigative journalism, is crucial for the success of anti-corruption activities. Therefore, more professional and independent journalists are needed to closely cooperate with civil society and other interested parties in the filed.

Most of issues mentioned above should be reflected in the revised National Anti-Corruption Strategy and its Action Plan. Best practices of anti-corruption measures all over the world should be reviewed to identify the most applicable ones in the context of the current political and economic developments in the country.

To revise both the Strategy Program and Action Plan a working group should be formed to involve all the interested institutions/actors (representatives of executive, legislative and judicial authorities, political parties, businesses, NGOs, mass media, international organizations, etc.) to review and make the Program and its Action Plan compatible to be seen as one integrated document. The following should be done to revise both documents:

- Explain and justify why there is a time period of only 2003-2007.
- Assess the harmful consequences of corruption on the political, economic and social developments of the country.
- Recommend measures aimed at reducing corrupt opportunities in the military, earthquake zone, urban development, vote-buying, use of administrative resources, party financing, etc.
- Extend the list of activities in the fields of environment, transportation, energy, allocation and use of credits and grants, etc.
- Separate the problems related to local self-governance and recommend corresponding activities to be implemented at community level.
- Expand on the issues on illegal privileges of some big businesses, concentration of political and economic power in the hands of a group of

political leaders, as well as the generation of capital and income through abuse of power.

- Apply the main components of the fight against corruption (education, prevention and detection) to all the fields.
- Extend the list of institutions responsible for the implementation of the Program, not limited by the Executive only.
- Recommend activities ensuring political and administrative independence of the law-enforcement, control and review bodies (for example, separate the Chamber of Control from the National Assembly, or give the power of selecting the members of the Council of Justice to the judges and prosecutors, but not the President).
- Increase the number of activities aimed at improving internal and external control.
- Separate the state and public monitoring of both government and donor anti-corruption programs, with the appropriate responsible institutions/actors and concrete schemes and indicators (benchmarks).
- Require political and financial independence of public monitoring organizations from the state authorities.
- Strengthen the control over the law-enforcement and ensure the timely adoption and harmonization of the appropriate secondary legislation.
- Increase the risk of corrupt practices by strengthening the punishment mechanisms.
- Specify the list of corruption-related crimes in the Criminal Code and the Criminal Procedural Code.
- Consider as a criminal offence: avoiding submission of declaration on income and assets, providing wrong information on the latter, conflict of interest situations, use of administrative resources for the private or party benefit, etc.
- Establish a special body aimed at the development of anti-corruption policy as well as coordination and control of its implementation by involving all interested parties, and ensure transparency and accountability of its functioning.
- Ensure the coordination between the anti-corruption and other national programs, namely, the Poverty Reduction Strategic Program.
- Add activities aimed at publicizing the Program and its implementation process through mass media.
- Ensure the active participation of the public in the implementation and monitoring process of the Program and suggest concrete mechanisms for the “state-public” relationships (for example, through publicizing public complaints and the results of their processing, or publishing the drafts of the legislative and sub-legislative acts before their approval by the Government, or organizing public hearings and professional consultations on certain issues).

It must be noted though that even a perfect revised Strategy Program can be still ineffective, if there is no true political will to fight corruption, readiness of the state officials to implement reforms, sufficient financial and other types of assistance, and, what is the most important, public participation and support. Therefore, the revision of the Strategy and Action Plan should not be seen as pure editing, but as a great possibility to rethink the strategies and policies aimed at promoting democratic governance in Armenia through transparency, accountability and participation and make them really effective.

Endnotes

[1] www.transparency.org

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[3] Ibid., p.7 (the index of administrative corruption was defined as the share of revenues of firms that they typically pay per annum in unofficial payments to public officials in order to influence the implementation of state policies, regulations and laws in each country).

[4] J. Deteau "Corruption in CIS-7 Countries", CIS-7 Initiative Conference, Lucerne, January 21, 2003.

[5] "The Report of the Sociological Survey on Public Sector Reforms (for households and enterprises)", Armenian Democratic Forum, Yerevan, 2001.

[6] Ibid., p. 5.

[7] Ibid., p. 48

[8] Ibid., p. 52.

[9] "Country Corruption Assessment: Public Opinion Survey", CRD/TI Armenia, Yerevan, 2002.

[10] Ibid, pp. 5, 18 and 32.

[11] Ibid., pp. 6, 19, 33.

[12] Ibid., p. 4.

[13] Ibid., pp.15, 28 and 43.

[14] Ibid., pp. 7, 22 and 35.

[15] Articles 308-315, Criminal Code, 2003.

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[26] The Presidential Decree #1063, March 16, 2002, amended through the Decrees #1132, July 8, 2002; #1202, November 13, 2002; #1218, December 17, 2002; and #50-N, June 11, 2003.

[27] Ibid.

[28] The Presidential Decree #1064, March 16, 2002.

[29] "548 bureaucrats were fined", *Golos Armenii newspaper*, #91, August 12, 2003.

[30] "Fantastic Declarations", *Aravot daily*, issue #152/2942, August 21, 2003.

[31] *Asparez Online*, January 17,2003; May 6, 2002; March 19, 2001.

[32] The NA Decision #268-1, June 10, 1998.

[33] The NA Decision #014-3, September 10, 2003.

[34] The NA Decision #009-2, September 28, 1999.

[35] *Radio Free Europe/Radio Liberty Newsline*, June 16, 2000.

[36] *Radio Free Europe/Radio Liberty Newsline*, October 26, 2000.

[37] *Asbarez Online*, December 3, 2001.

[38] *Asbarez Online*, December 18, 2001.

[39] "Country Corruption Assessment: Public Opinion Survey", CRD/TI Armenia, Yerevan, 2002, pp. 12 and 26.

[40] *Hetq Online*, 2002.

[41] Article 115, Armenian Electoral Code, according to which only those parties that receive at least 5% of votes can be represented in NA through their factions.

[42] In 1997 and 2000, the state budget was approved after the beginning of the next fiscal year, which is allowed by the Constitution (see Article 76) if the expenditures are kept equal to what was spent in the same period of the previous fiscal year.

[43] www.hetq.am

[44] "548 bureaucrats were fined", *Golos Armenii newspaper*, #91, August 12, 2003.

[45] *Hayastani Hanrapetutyun daily*, #83 (3217) April 30, 2003.

[46] *Hayastani Hanrapetutyun daily*, #37 (3167) February 26, 2003.

[47] *Hayastani Hanrapetutyun daily*, #232 (3365) December 9, 2003.

[48] "Electoral Democracy: Is There an Alternative to It in Armenia?", Armenian Association of Women with University Education and Center for Democracy and Peace, Yerevan, 2003.

[49] Article 115, Armenian Electoral Code, according to which only those parties that receive at least 5% of votes can be represented in NA through their factions.

[50] During the recent NA elections, the ARFD made an alliance with Hrant Vardanyan, one of the wealthiest businessmen in Armenia, while the Ramkavar Party was supported by Ara Abrahamyan, a Russian oligarch of the Armenian origin.

[51] Article 112 of the Electoral Code provides that parties participating in the parliamentary elections can transfer from their accounts to their pre-election funds an amount, not exceeding 2,000 times of the minimum salary. Currently, the official minimum salary is defined equal to 1,000 AMD, thus, it is a 2,000,000 AMD (approximately $3,500) limit.

[52] *Hayastani Hanrapetutyun daily*, # 75(3209), April 18, 2003

[53] In each case, the Electoral Code defines a certain minimal number of citizens necessary for the nomination of a candidate to run for that particular position. For example, at least

100 citizens are needed to form a civil initiative group for nominating the Presidential candidate (see Article 68).

[54] During the recent Presidential and NA elections there were approximately 1,885 precincts.

[55] *Aravot daily*, March 2-6, 20-22, 2003.

[56] "OSCE/ODIHR Final Report on the Presidential Elections in Armenia", April 28, 2003 and "OSCE/ODIHR Final Report on the Parliamentary Elections in Armenia", July 31, 2003, pp. 12-13.

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[58] "OSCE/ODIHR Final Report on the Presidential Elections in Armenia", April 28, 2003, p. 8 and "OSCE/ODIHR Final Report on the Parliamentary Elections in Armenia", July 31, 2003, p. 19.

[59] "OSCE/ODIHR Final Report on the Presidential Elections in Armenia", April 28, 2003, p. 6.

[60] "OSCE/ODIHR Final Report on the Parliamentary Elections in Armenia", July 31, 2003, p. 8.

[61] "OSCE/ODIHR Final Report on the Presidential Elections in Armenia", April 28, 2003, p. 6.

[62] "OSCE/ODIHR Final Report on the Parliamentary Elections in Armenia", July 31, 2003, p. 8.

[63] The Constitutional Court Decisions #425, June 16, 2003 and #434, July 1, 2003.

[64] "OSCE/ODIHR Final Report on the Presidential Elections in Armenia", April 28, 2003, p. 5.

[65] www.ypc.am and www.hetq.am

[66] V. Zakaryan "Journalists were Subjected to Pressure throughout the Elections" (www.hetq.am).

[67] "OSCE/ODIHR Final Report on the Presidential Elections in Armenia", April 28, 2003, p. 3.

[68] www.ypc.am

[69] The Executive Summary of the "OSCE/ODIHR Final Report on the Parliamentary Elections in Armenia", July 31, 2003, p. 1.

[70] Ibid., p.3.

71 "The 2003 National Assembly Elections: Public Opinion Survey", www.transparency.am

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[78] The Constitutional Court Decision #436, July 7, 2003.

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[80] *Radio Free Europe/Radio Liberty*, December 3, 2003

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[85] The Presidential Decree #726, November 13, 2000.

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[92] *Asparez Online*, July 29, 2003.

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[94] "Country Corruption Assessment: Public Opinion Survey", CRD/TI Armenia, Yerevan, 2002, p.11.

[95] *Aravot daily*, March 2-6, 20-21, 2003.

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[108] www.ypc.am

[109] L.Baghdasaryan "The Media of Armenia and the Environment We Worked with as Viewed by Journalists" (www.hetq.am).

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