



TRANSPARENCY INTERNATIONAL
anti-corruption center

EUROPEAN NEIGHBOURHOOD POLICY:

**MONITORING ARMENIA'S
ANTI-CORRUPTION COMMITMENTS**

Table of Contents

I. Foreword	2
II. Acknowledgements	3
III. Executive Summary	4
IV. Background to Study	9
V. Findings: Implementation of Governance & Anti-Corruption Commitments of the EU – Armenia Action Plan	10
1. Objective1: Strengthening the Judiciary	10
2. Objective2: Civil Service Reform	32
3. Objective3: Implementation of Armenia - GRECO Recommendations	55

Cover photo: © Flickr/10b travelling

© 2010 Transparency International Anti-corruption Center, Armenia. All Rights Reserved

Foreword

The enlargement of the European Union (EU) inspired the creation of a new framework - the European Neighbourhood Policy (ENP) - which offers Armenia a chance for economic integration into the European market and further political co-operation with Europe. The ENP-Armenia Action Plan is a non-binding policy document that outlines the strategic objectives of co-operation between Armenia and the EU for a period of five years from 2006 to 2011. The Armenian government has twice developed its own plans to introduce measures that follow the priorities and meet the objectives of the Action Plan.

Implementation of the Action Plan is expected to significantly further the alignment of Armenia's legislation, norms and standards to those of the EU. ENP's ambitious objectives include the building of a solid base for economic integration and political dialogue with Europe, promotion of economic growth and social cohesion, poverty reduction, conflict resolution, environmental protection and what Transparency International (TI) finds to be the country's most crucial needs: building democracy, enhancing good governance and confronting corruption.

Strengthening democratic institutions and the rule of law, the first priority area in the ENP-Armenia Action Plan, includes judiciary and civil service reforms and anti-corruption measures. The plan invites Armenia to demonstrate its true political will to meet quite ambitious objectives that are based on commitments to shared values and effective implementation of political, economic and institutional reforms. There are no sanctions for failure to meet ENP commitments, but if Armenia truly seeks to become a democratic state and move closer to European governance standards, Armenian authorities should treat the country's ENP commitments as one of top priorities for reform processes.

More specifically, the anti-corruption agenda of the ENP-Armenia Action Plan consists of two specific objectives: the review of progress made in the implementation of a national anti-corruption strategy and the evaluation of the introduction and formation of a civil service system in accordance with EU norms. The plan also includes eight recommended actions specifically connected to the fight against corruption. These include adequately prosecuting crimes of corruption via the establishment of administrative courts; criminalising corruption in line with international standards; implementing anti-corruption measures within law enforcement agencies, including the development of codes of ethics; ensuring the effective monitoring of officials' declarations of assets and income; securing progress in the implementation of the Group of States Against Corruption (GRECO) recommendations; and increasing judges' salaries.

This report goes beyond the aforementioned recommendations in an attempt to assess the current reforms in the Armenian judiciary and civil service system, along with the progress made in addressing those GRECO recommendations which have been deemed to be implemented only partially or not at all at the time of the last GRECO evaluation in 2008. Such an approach furthers understanding of the strengths and weaknesses of two important institutions, on which the success of any anti-corruption reform largely depends. At the same time, the success of anti-corruption reforms in Armenia also depends on the real progress that remains to be made in other key institutions and sectors such as the legislature, electoral processes, the executive branch, law enforcement processes, the media, protection of freedom of expression, the business sector, market development, civil society and social justice, etc. Therefore, those Armenian ENP commitments which will contribute to the reform of other institutions and sectors also merit due attention.

Acknowledgements

Transparency International Anti-Corruption Center Armenia wishes to gratefully acknowledge the valuable input of all those individuals and representatives of state and non-state institutions who contributed to the development of this report. The project team at TI Secretariat and TI Brussels Office is also grateful to TI staff members in Yerevan, Baku, Tbilisi and Berlin for their continuing support. Finally we wish to extend our appreciation to the Norwegian Ministry of Foreign Affairs who provided the financial support for this project.

Executive Summary

This monitoring report assesses the degree to which the Armenian government has complied with the 2006 ENP Action Plan. It monitors the progress made in fulfilling the objectives of Strengthening the Judiciary, the Reform of the Civil Service and continuing the fight against corruption through compliance with the recommendations issued by GRECO.

I. Analysis of reform related to Objective 1: Strengthening the Judiciary revealed that some progress has been made in increasing human resource management but that much remains to be achieved on the key issues of judicial independence and transparency of the judiciary. The report shows that despite the existence of legal provisions aimed at ensuring judicial independence, certain implementation problems resulted in an overall score of 79.1% for that indicator. Judicial transparency scored lower at 66.6%. Access to justice is another problematic area with a low score, 50.0%, which derives from both legal deficiencies and poor implementation of the law in practice. The judiciary scored 71.8% overall.

Ironically, despite receiving quite a high score in this study, the judiciary is still perceived to be the most corrupt sector in Armenia, according to the latest TI Global Corruption Report (see www.transparency.org/policy_research/surveys_indices/gcb/2009). The recent monitoring of a trial in Armenia identified "... various issues of concern regarding the right of the accused and defendants to a fair trial and the right to liberty" (see "The OSCE/ODHIR Final Report Trial Monitoring in Armenia", Warsaw, March 2010, p.5). Another monitoring report revealed "grave violations of law in the administration of justice, as well as unjustified limitations of the individuals' rights and freedoms" (see "Implementation of the Right to Fair Trial in the Armenian Judicial System (Monitoring Results)", Open Society Institute, Yerevan, 2009, p. 213).

The US State Department's 2009 Human Rights Report on Armenia mentioned that "The law provides for an independent judiciary; however, courts remained regularly subject to political pressure from the executive branch, and judicial corruption was a serious problem" (see www.state.gov/g/drl/rls/hrrpt/2009/eur/136018.htm). On 25 December 2009, the Armenian ombudsman issued the report "Ensuring the Right to a Fair Trial in the Republic of Armenia", which indicated that violations of the right to a fair trial distorted the role of the courts as an impartial arbiter, keeping public confidence in the administration of justice very low (see www.ombuds.am/main/en/10/31/).

The impunity of judges on one hand and their dependence on other actors on the other hand are likely to be the key reasons for the continued poor performance of the judiciary in Armenia. In spite of the multi-year reform process that the country has carried out with the assistance of the World Bank and the EU to ensure independent and fair trials and free access to justice, corruption, poor administration of justice and violation of citizens' rights appear to persist as characteristics of the Armenian justice system. The political leadership uses the judiciary as an effective tool to control the society as a whole, while judges loyal to the political regime remains immune to detection and punishment. Analysts cite the highly hierarchical system of governance in Armenia, which does not include real separation of powers or functioning check-and-balance mechanisms, as the main cause of this problem. Therefore, certain systemic reforms of the entire political-administrative system must be implemented in order to radically improve the current state of affairs.

The key recommendations for Objective 1 with regard to the problematic areas revealed in this report are the following:

1. To deprive the president of the Republic of Armenia (RA) of the power to intervene in the selection of judges. This power should be vested in the RA Council of Justice. The law should also provide that the appointment and removal of judges be subject to public oversight.
2. To monitor the performance of judges carefully, investigate evidently impartial judicial decisions properly, and apply appropriate sanctions against those whose conduct is contrary to the law.
3. To prohibit by law the assigning of cases by the court chairperson and legally restrain the subjectivity of the judicial process.
4. To strengthen the liability of judges for unjustified delays in hearings, as well as require from them in writing the reasons for any delay, which shall be made public.
5. To strengthen the institution of the public defender in order to improve the quality of free legal assistance.
6. To require from judges a written justification of the barring of audio- or video-recording of the court session or removal of attendees from the courtroom. There should be a legal mechanism to appeal the justification and hold the judge liable for wrongdoing.
7. To ensure that all verdicts and decisions of all courts are made public on the official website www.courts.am.
8. To strengthen sanctions for unethical behaviour (including conflict of interest) by judges and other actors in judicial processes.

II. The picture looks somewhat different for Objective 2: Civil Service Reform. A lag in the implementation of existing legal provisions in the civil service led to a score of 68.7% for independence, accountability and transparency. Both the legal framework and its implementation showed even lower compliance with the human resources and integrity sub-objectives (40% and 12.5%, respectively). Problems also exist in public procurement legislation and law enforcement. The civil service scored only 50.0% overall.

Though public sector reform in Armenia began a long time ago with the support of international financial institutions and other organisations, the progress which has been made thus far appears to be unsatisfactory. The concept of the public service as an institution that unites all public institutions and services is present neither within the legislative framework nor in the minds of public officials or citizens. In addition to civil service legislation, numerous other legal and sub-legislative acts related to specific services and institutions cause a great deal of confusion. This study thus addressed the civil service only. However, the current findings reflect real trends in the entire public sector, although public officials are more exposed to corruption in some sectors (e.g. law enforcement, control and inspection bodies) than others. Needless to say, the higher the position a public official holds, the more opportunities for corruption present themselves.

The media repeatedly point to corruption (mainly in the form of bribery), nepotism, kinship, conflict of interest, etc., as rampant in the Armenian public sector, which includes the civil service (see www.transparency.am/media_archive.php). A 2008 public opinion survey also indicated quite a high level of perceived corruption in state institutions and public offices (see “2008 Armenia Corruption Survey of Households”, USAID MAAC/Casals&Associates, IFES and CRRC, Yerevan, 2009, pp. 1-2). The following recommendations, based on monitoring of the civil service, hold a great deal of relevance for the entire public sector:

Civil Service

1. To improve competition and attestation procedures by redesigning test questions, keeping the names of the persons participating in tests anonymous, and excluding face-to-face communication (interviews), and to develop a new mechanism of evaluation of the performance of civil servants.
2. To introduce stricter criteria for selection of members of competition and attestation commissions in order to ensure a high level of relevant competence and prevent conflict of interests.
3. To establish clear criteria for the final selection of competition winners as well as for the promotion of civil servants based on attestation results.
4. To introduce an effective system of verifying the information contained in the declarations of assets and incomes that civil servants submit (see also recommendations for Objective 3).
5. To introduce a unified code of ethics for all public officials and to introduce regulations regarding conflicts of interest (see also recommendations for Objective 3).
6. To adopt legal mechanisms for the protection of whistleblowers (see also recommendations for Objective 3).

Public Procurement

7. To clarify or remove from the law on procurement the phrase “other unforeseen situation” as a condition for single sourcing.
8. To extend to more cases the use of non-price criteria in bid evaluation (in addition to consulting services).
9. To adopt the practice of conducting public hearings in order to clarify tender documents.
10. To develop procurement item specifications in a more professional and transparent manner.
11. To establish an independent non-judicial/out-of-court review-and-complaint system in public procurement.
12. To adopt a code of ethics for procurement officials and introduce effective mechanisms to prevent conflicts of interest.

III. Monitoring of Objective 3 concerns the 12 GRECO recommendations for Armenia in the field of anti-corruption which were evaluated in the 2008 Compliance Report on Armenia as “not implemented” (X, XV, XX and XXII) or “partially implemented” (IV, XI, XVI, XVII, XVIII, XIX, XXI and XXIII)¹.

The findings presented here show that since 2008 progress has been recorded only with respect to a couple of recommendations, namely IV and XV, which relate to the training of police officers, prosecutors and judges on issues of corruption and money laundering and to the improvement of public sector conflict of interest policies. In sum, 10 recommendations are scored as “partially implemented”, whereas two remained “not implemented”. Thus, Objective 3 scored only 38.4% total.

¹ See [www.coe.int/t/dghl/monitoring/greco/evaluations/round2/reports\(round2\)_en.asp](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round2/reports(round2)_en.asp)

It should be pointed out that the vast majority of these recommendations relate to public sector reforms, and their implementation is slowed by the delay in modernising the public sector in compliance with European standards. For this reason, the final score for Objective 3 is comparable with the score for Objective 2. The assessment of the GRECO recommendations indicated problems both with legislative and procedural reforms, and with the implementation of these reforms in practice. TI recommends the following measures in respect to Objective 3:

1. To establish and implement a model for systematic training of police officers, prosecutors and judges on issues of corruption and money laundering.
2. To set up guidelines and provide special training for tax authorities to detect corruption offences and report them to the relevant law enforcement agencies.
3. To issue guidelines for use by all categories of public officials when confronted with conflicts of interest.
4. To introduce clear rules/guidelines and training for public officials to report instances of corruption and establish adequate protection for public officials who report instances of corruption in good faith (whistleblowers).
5. To reconsider procedures for lifting the immunity of prosecutors and judges by reducing the role of predominant individual decision-makers (i.e. the president of the RA/prosecutor general) in these procedures.
6. To reduce the categories of persons enjoying immunity from prosecution and abolish, in particular, the immunity provided to parliamentary candidates, members of the central electoral commission, members of regional and local electoral commissions, mayoral candidates and local council candidates.
7. To systematically collect and evaluate - at a central level - information on complaints about breaches of ethical rules within the public administration as well as on the outcome of disciplinary proceedings and, based on this evaluation, to take measures to make the necessary changes for improvement.
8. To lower the value of gifts that may be accepted by civil servants, employees or other officials to levels that clearly do not raise concerns about bribes or other forms of undue advantage and to introduce mandatory reporting of gifts of any value.
9. To make wider use of job rotation in public administration sectors particularly vulnerable to corruption.
10. To prepare a code of ethics for the public administration and ensure that all public officials receive appropriate training and that the code is available to the public.
11. To introduce an effective system for verifying declarations of property and income by all public officials whose service duties could be affected by conflicts of interest.
12. To ensure that both natural and legal persons establishing companies are checked and monitored for possible criminal records or professional disqualifications.
13. To establish the liability of legal persons for offences of bribery and money laundering in accordance with the Criminal Law Convention on Corruption.

Finally, bearing in mind the aforementioned recommendations, the following general recommendations apply to all of the objectives:

- a) To align domestic legislation with international standards of transparency, accountability, integrity, and effective resource management;
- b) To ensure effective enforcement of the existing legal framework and regulations;
- c) To demonstrate concrete examples of the detection and punishment of public officials regardless of their position or income;
- d) To ensure effective public oversight (through civil society groups and media) of all public institutions and services, especially those most exposed to corruption.

Background to the Study

The ENP is a framework for bilateral agreements between the EU and its neighbours to the south and east.² It has the stated objective of ‘avoiding the emergence of new dividing lines between the enlarged EU and our neighbours and instead strengthening the prosperity, stability and security of all concerned’.³ Within the framework of the ENP, certain states⁴ have signed Action Plans, which are designed to outline the specific commitments of that state in the context of its relationship with the EU. Amongst many other policy areas (e.g. environmental and energy policies, immigration and border control, human rights, economic development, conflict resolution, etc.), anti-corruption and good governance feature prominently in all of the Action Plans signed to date.

While the European Commission (EC) carries out periodic reviews of the implementation of ENP Action Plans, many civil society organisations, including TI national chapters, have also been actively monitoring their government’s work in relation to the Action Plans. The impact of this work has generally been somewhat limited, due to the lack of an analytical monitoring framework, clear benchmarks and timelines. This report is part of a regional project funded by Foreign Ministry of Norway, currently being implemented in Armenia, Georgia and Azerbaijan, which aims to monitor ENP implementation. It seeks to maximise the impact of monitoring work by using a solid indicator-based framework to assess progress in the ENP areas related to anti-corruption, namely the judiciary, the public sector and the implementation of international conventions.

The TI Secretariat developed the indicators in consultation with TI national chapters in Armenia, Georgia and Azerbaijan. The wording of each Action Plan was analysed and common objectives related to governance and anti-corruption were identified. Three core areas emerged, which all of the Action Plans address to a greater or lesser extent – judicial reform, reform of the public sector and implementation of international conventions. For each of these objectives, specific sub-objectives were identified related to principles of independence, transparency, accountability and integrity. Relevant indicators were developed (using international standards and best practices) to measure progress in these areas. Each indicator was scored on a three-point scale of compliance from 0 to 2 (where 0 is non-compliance and 2 is full compliance) based on the collected information, which is summarised in an adjacent note. The scoring systems allows for aggregation across indicators to obtain an overall score for each dimension.

The data on which the assessment is based was collected using a desk review of legislation and relevant policy documents, as well as through key informant interviews between November 2009 and March 2010, and covers progress made in ENP implementation through the end of 2009. This study also used media publications on related topics as a source of reference.

² Algeria, Armenia, Azerbaijan, Belarus, Egypt, Georgia, Israel, Jordan, Lebanon, Libya, Moldova, Morocco, the Palestinian Authority, Syria, Tunisia, Ukraine.

³ See ‘The Policy: What is the European Neighbourhood Policy?’ ec.europa.eu/world/enp/policy_en.htm.

⁴ All ENP countries except Algeria, Belarus, Libya and Syria have signed an Action Plan.

Findings: Implementation of Governance & Anti-Corruption Commitments of the EU – Armenia Action Plan

Objective 1: Strengthening the Judiciary					
Sub-objective	Indicators	Scale of compliance			Notes and sources
		Full	Partial	None	
		2	1	0	
Ensure independence of judiciary	To what extent are there legal provisions in place requiring that the selection and promotion of judges be based on merit?		1		The procedure for the appointment of members of the Constitutional Court is defined by Article 1 of the Republic of Armenia (RA) Law on the Constitutional Court. Article 3 of the same law defines the requirements for membership in the Constitution Court. These include: high level of education, minimum 10 years of work experience, work experience in state or educational institutions in the legal area, high moral standards, etc. Article 115 of the RA Judicial Code sets out the professional criteria that judges must meet, and Articles 115-117 of the code specify the procedure for appointing judges. The promotion of judges is regulated by professional, organisational, ethical, and other similar requirements named in Article 135 of the same code. In detail, the selection process includes the following steps: The Governing Council of the RA Judicial School submits to the RA Council of Justice a list of the 16 candidates who received the highest scores (see Article 116 of RA Judicial Code). The Council of Justice reviews the list and invites candidates for interviews (see Article 117 of the code). The 13 members of the Council of Justice vote (each member has the right to vote up for 10 candidates). The RA president approves the list of candidates. Some legal experts believe that because the president is authorised to approve or disapprove any candidate and actually intervene in the governing process of the Council of Justice, there is no guarantee that selection is always based solely on merit.

Objective 1: Strengthening the Judiciary - continued					
Sub-objective	Indicators	Scale of compliance			Notes and sources
		Full	Partial	None	
		2	1	0	
					The US State Department's 2009 Human Rights Report on Armenia expressed concern that the RA president retains "a highly influential role over judicial branch personnel" (see p. 7) in the process of nominating candidates for judgeships. This concern is also voiced in one of the ENP monitoring reports (see "Armenia's ENP Implementation in 2009", Partnership for Open Society, 2009, Yerevan, pp. 8-9).
	In practice, to what extent is the selection and promotion of judges based on merit?		1		According to the RA Judicial Department, the selection and promotion of judges is performed based only on legal regulations, in particular, on factors specified by relevant articles of the Judicial Code. However, in the opinion of the interviewed advocate⁵, judges are not always selected and promoted on the basis of merit: while some of the judges he has worked with demonstrate a high level of professional knowledge, others are far less knowledgeable. As indicated in the interview with the former judge⁶, despite some progress in establishing a judiciary school, the appointment and promotion of judges continues in many cases to be based on patronage, kinship and personal contacts rather than on merit. Both a former judge⁷ and one of the interviewed legal experts⁸ pointed out the problem that most current judges have a background as prosecutors or in the police force. This affects their performance quite negatively, as they retain old habits of thinking. They still see the trial from the point of view of a prosecutor or investigator, even if they have been re-trained as judges. As a result, many judges seek to satisfy the prosecutor of a given case rather than to execute justice. Another interview was conducted with the former prosecutor⁹, who confirmed that the use of political affiliation, bribery, kinship and other

⁵ Interview of the project researcher with Ruben Sahakyan, Chair, the Chamber of Advocates, Yerevan, 2 March 2010.

⁶ Interview of the project researcher with a former judge, Yerevan, 18 March 2010.

⁷ Ibid.

⁸ Interview of the project researcher with Hrayr Ghukasyan, Law Professor, Yerevan State University, Yerevan, 31 March 2010.

⁹ Interview of the project researcher with a former prosecutor, Yerevan, 23 March 2010.

Objective 1: Strengthening the Judiciary - continued					
Sub-objective	Indicators	Scale of compliance			Notes and sources
		Full	Partial	None	
		2	1	0	
					illegal and unethical means to gain a judgeship is a widespread practice.
	To what extent are there legal provisions which provide for security of tenure (to prevent judges from being threatened with arbitrary termination of their contract)?	2			According to Article 96 of the RA Constitution, judges and the Constitutional Court members are appointed on a permanent basis, with the appointment running until the judge reaches the age of 65. Their powers are terminated only in cases and procedures specified by the constitution and laws. Articles 95 and 97 of the RA Constitution provide that no judge or member of the Constitutional Court can be held liable without agreement with the Constitutional Court or the Justice Council, respectively. Article 10 and Article 14 of the RA Law on the Constitutional Court protect members of the Constitutional Court from arbitrary termination. Article 12 of the same law specifies the immunity of members of Constitutional Court. According to Article 14, the powers of the Constitutional Court member can be terminated in certain cases including death, loss of Armenian citizenship, resignation, court decision on the judge's inability to perform his/her duties, and violation of the law. As provided by Article 14 of the RA Judicial Code, judges cannot be replaced. Article 13 of the same code specifies the procedure for detaining a member of the judiciary, involving him/her as a defendant, or exposing him/her to administrative liability.
	In practice is it the case that judges are not removed from office for anything other than misconduct or incapacity to carry out judicial functions?		1		No case of early removal of a member of the RA Constitutional Court from office has been recorded. Formally, no judge has been removed for reasons other than those envisaged by the law. According to the interviewed legal expert, four cases of removing judges from office have been recorded over the last three years, of which two were due to disease hindering the judges' further official activity and two were disciplinary sanctions for poor

Objective 1: Strengthening the Judiciary - continued					
Sub-objective	Indicators	Scale of compliance			Notes and sources
		Full	Partial	None	
		2	1	0	
					performance of professional duties, such as unjustified delay of a court case or application of non-adequate sanction (see respectively www.court.am/files/news/411_am.pdf and Aravot daily, 2 May 2006). One of the removed judges claimed that proper removal procedures had been violated and another claimed political repression. Experts and legal practitioners are not united on these matters; some find the removals justified, while others do not. For example, the former prosecutor¹⁰ strongly believes that all dismissals are results of personal revenge or political repression. The media have noted that disciplinary proceedings against one of the judges were initiated shortly after he set free two businessmen who had accused high-level officials of corruption and had later been controversially prosecuted by Armenian authorities (see www.azatutyun.am/content/article/1590615.html, www.panorama.am/am/law/2007/09/26/ohanyan, www.a1plus.am/am/politics/2007/09/27/20420).
	To what extent are there legal regulations in place to ensure that judicial salaries are comparable to those of other high-level government employees?	2			The official salary rates of judges and members of the Constitutional Court are specified by Article 2 of the RA Law on Official Salary Rates of High-Level Officials of the RA Legislative, Executive and Judicial Authorities. According to Article 9 of the same law and Article 64 of the Judicial Code, the official salary rate of judges of the common jurisdiction courts is defined each year by a separate article of the Law on the State Budget (see Article 9 of the RA Law on the 2009 State Budget and the same for 2010). The official salary rates of judges of the Court of Appeal and the Court of Cassation are specified by Article 75 of the RA Judiciary Code. The same article also specifies the bonuses that can be applied to official judicial salary rates.
	In practice, are judicial salaries comparable to the salaries of other	2			Judicial salary rates are normally higher than those of other high-level government employees. Thus, Article 2.1 of the RA Law on Official Salary Rates of High Level Officials of the RA Legislative, Executive

¹⁰ Interview of the project researcher with a former prosecutor, Yerevan, 23 March 2010.

Objective 1: Strengthening the Judiciary - continued					
Sub-objective	Indicators	Scale of compliance			Notes and sources
		Full	Partial	None	
		2	1	0	
	high-level government employees?				and Judicial Authorities provides that the Constitutional Court chair receives a monthly salary rate of 680,000 AMD (~ US \$1,700)¹¹, and the Constitutional Court members receive 600,000 AMD (~ US \$1,500) per month. Meanwhile, according to the aforementioned law, the RA president and the RA prime minister have the official salary rate of respectively 440,000 AMD (~ US \$1,100) and 340,000 AMD (~US \$850) per month (see Articles 1 and 2), which is comparable to the monthly official salary rate of judges of the RA common jurisdiction courts equal to 440,000 AMD (~ US \$1,100) (see http://www.parliament.am/legislation.php?sel=show&ID=3419&lang=arm and http://www.parliament.am/legislation.php?sel=show&ID=3741&lang=arm).
	Is the judiciary legally entitled to propose, allocate and manage its own budget?	2			According to Section 1 of Article 64 of the RA Judicial Code, courts are funded through the Judicial Department of the Republic of Armenia, within the expenditures set out under the state budget. Funding of the central body and the separate subdivisions is reflected in the budgetary proposal and in the state budget in a separate line – “courts of the RA”. The same article specifies the budgeting procedure for the judicial system. Thus, courts are funded by a separate line within the expenditures stipulated in the state budget. At the same time, a court decides at its own discretion how to handle the provided funds. According to Article 7 of the RA Law on the Constitutional Court, the chair of the Constitutional Court submits the estimated expenses of the Constitutional Court to the Government for inclusion in the draft state budget.

¹¹ 400 AMD = US \$1.

Objective 1: Strengthening the Judiciary - continued					
Sub-objective	Indicators	Scale of compliance			Notes and sources
		Full	Partial	None	
		2	1	0	
	In practice, does the judiciary propose, allocate and manage its own budget?	2			According to the RA Judiciary Department, the legal provisions described above are implemented in practice.
	To what extent are there regulations regarding the assignment of cases to judges by an objective method administered by the judiciary?	2			This process is regulated by Decision #10-L of 2009 of the RA Council of Chairs of the Courts. According to that decision, cases are distributed by district and street among judges examining civil cases within a particular judicial territory, and the territory assigned to a judge changes each year; distribution of cases among judges examining criminal cases is performed pursuant to the reference numbers of the registered cases, in accordance with the reference numbers of the judges' stamps.
	In practice, are judges assigned to cases by an objective method, in a process administered by the judiciary?		1		According to the reference received from the RA Judicial Department, yes. However, the interviewed advocate¹² mentioned that some subjective factors could affect the process. For example, if workload is an issue then the judge may take on a simple case rather than a complicated one. Another example is when the case is taken because of personal gain, be it an opportunity for professional success or the expectation of a bribe. As a rule, the subjective personal decision of the chair of the court determines how cases are assigned. The former judge¹³ shared this opinion about subjectivity of the assignment process, especially in criminal cases in which the chair of the court is the one who makes a selection. The former prosecutor¹⁴ shares this opinion with regard to the subjective nature of decisions of the chair of the court in assigning criminal cases.

¹² Interview of the project researcher with Ruben Sahakyan, Chair, the Chamber of Advocates, Yerevan, 2 March 2010.

¹³ Interview of the project researcher with the former judge, Yerevan, 18 March 2010.

¹⁴ Interview of the project researcher with the former prosecutor, Yerevan, 23 March 2010.

Objective 1: Strengthening the Judiciary - continued					
Sub-objective	Indicators	Scale of compliance			Notes and sources
		Full	Partial	None	
		2	1	0	
Freedom from interference	To what extent is there a specific legal framework or constitutional provision to protect judges from external interference or improper influence by public officials or private interests?	2			Article 97 of the RA Constitution stipulates that “when administering justice, judges and members of the Constitutional Court shall be independent and shall only be subject to the Constitution and the law”. According to Article 11 of the RA Judicial Code, “It shall be prohibited to interfere with the activities of a judge in any way that is not foreseen by law. Any such act is subject to criminal prosecution. For public servants, it gives rise also to disciplinary liability, up to and including dismissal from office or service in accordance with the procedure stipulated by the relevant laws regulating public service”. The law imposes on judges positive obligations to inform the Ethics Commission of the Council of the Court Chairmen about such interferences (see Article 11 of the RA Judicial Code). Moreover, failure to do so can lead to disciplinary action (see Article 153 of the RA Judicial Code). Members of the RA Constitutional Court shall be independent and subject only to the Constitution and to the law when administering constitutional justice (see Article 9 of the RA Law on the Constitutional Court). The Constitutional Court member has no right to seek or receive instructions in the course of court activities. Any exertion of influence on a member of the court in relation to his/her activities is prohibited and shall be prosecuted by law. Moreover, any interference with or influence on a member of the Constitutional Court in relation to his/her activities shall be immediately reported to the Constitutional Court, which can request that the person who interfered and/or organised the interference be held liable. Article 6 of the same law stipulates that “In case of any illegal effect or danger of such effect on the immunity of the Constitutional Court member, his/her family members, and his/her office or residence space the authorised state bodies have to undertake all immediate necessary measures to provide the security of the member of the Constitutional Court, his/her family members, and his/her office or residence space following the request of the Constitutional Court.” Article 301.1 of the RA Criminal Code prescribes criminal liability if the

Objective 1: Strengthening the Judiciary - continued					
Sub-objective	Indicators	Scale of compliance			Notes and sources
		Full	Partial	None	
		2	1	0	
					action was directed toward the RA Constitutional Court. Article 332 prescribes a criminal penalty for hindrance to the administration of justice in general, while Article 347 defines any threat or violence towards judges in relation to administration of justice or to preliminary investigations as criminally liable.
	In practice, to what extent are judicial proceedings and decisions free of bias or improper influence by public officials or private interests?		1		In the opinion of two interviewed lawyers¹⁵, despite existing legal protection of the impartiality of judges and members of the Constitutional Court, the Armenian judicial system as a whole is significantly influenced by the president of the country and other political and non-political actors. In addition, the general public perceives the judiciary as extremely corrupt (see www.transparency.org/policy_research/surveys_indices/gcb/2009). The media referred to numerous cases of judges taking bribes, making partial, influenced or simply wrong decisions, and distorting the administration of justice (see www.transparency.am/media_archive.php). As Hovhanness Manukyan, then the Chair of the RA Court of Cassation, said in a media interview, imperfect regulation of the disciplinary liability of judges gives rise to numerous opportunities to put illegal pressure on them (see www.hhpress.am/index.php?sub=hodv&hodv=20080909_1&flag=am). The US State Department's 2009 Human Rights Report on Armenia also addresses the problems of political pressure on the Armenian judiciary and judicial corruption (see www.state.gov/g/drl/rls/hrrpt/2009/eur/136018.htm). It was particularly noted that "...the courts were widely perceived as corrupt, and potential litigants in civil cases often evaluated the advisability of bringing suit on the basis of whether they or their opponents had greater resources with which to influence judges". In reference to political prisoners and detainees, the report mentioned that most

¹⁵ Interview of the project researcher with two lawyers, Yerevan, 31 March 2010.

Objective 1: Strengthening the Judiciary - continued					
Sub-objective	Indicators	Scale of compliance			Notes and sources
		Full	Partial	None	
		2	1	0	
					arrests appeared to varying degrees to be politically influenced. Another report also refers to observations of biased or influenced judicial decisions. The OSCE/ODIHR Final Report on Trial Monitoring in Armenia, Warsaw, March 2010 indicates that in 42% of the monitored hearings the monitors thought that the judges were not impartial. In many of the observed cases, judges manifested a prosecutorial bias. The report says that the perception that judges “walk hand in hand” with prosecutors undermines the impartiality of judges and the judiciary in general (see pp. 84-85).
SCORE (Judicial Independence)	19/24 (79.1%)				
Improve training of judges and other officials in the judiciary (Human Resource Management)	To what extent are there legal provisions to ensure that judges are regularly trained in new judicial practices and procedures and new and/or changing laws?	2			Training of judicial candidates and training and retraining of judges are regulated by the relevant articles of the RA Judicial Code. In particular, according to Article 193 of the RA Judicial Code, the qualification committee defines the main guidelines and total number of training hours for the year prior to October 1 of a given calendar year, with no less than 80 and no more than 120 training hours annually. According to Article 77 of the same code, in addition to participating in obligatory training courses, a judge has the right to participate in other training programmes, forums, and other professional assemblies of lawyers. Article 167 of the code stipulates that the powers of a judge be terminated by the RA president based on a suggestion by the RA Justice Council if the judge does not pass the annual training programme for two consecutive years.
	In practice, is it the case that judges are regularly trained and given access to new judicial practices and procedures and new and/or changing laws?	2			The Judicial School organises ongoing training courses for judges on civil, administrative and criminal law, according to their specialisation. According to the reference provided by the RA Judicial Department, during 2009 training sessions and discussions of legislative changes were organised in response to legislative amendments passed in the fields of civil and criminal law. There is no available information that calls into question the regularity of training sessions and discussions.
SCORE (Judicial	4/4 (100.0%)				

Objective 1: Strengthening the Judiciary - continued					
Sub-objective	Indicators	Scale of compliance			Notes and sources
		Full	Partial	None	
		2	1	0	
Human Resources Management)					
Improve access to justice	To what extent are there legal provisions which provide for free public defence for persons without means to cover procedural costs?		1		According to Articles 19 and 20 of the RA Constitution, everyone has a right to restore his/her violated rights and receive legal assistance. Article 6 of the RA Law on Advocacy stipulates that the state guarantee free legal assistance for criminal and certain civil cases; pursuant to the procedure stipulated by Article 41 and Article 42 of the same law, this is performed at the expense of the state, although the Office of the Public Defender operates within the Chamber of Advocates. The US State Department's 2009 Human Rights Report on Armenia commented that "... defendants would at times refuse their public defenders because of the perception that the public defenders colluded with prosecutors" (see p. 8). According to a local expert there has been no improvement in the state of free public defence, which is far from satisfactory (see "Armenia's ENP Implementation in 2009", Partnership for Open Society, Yerevan, 2009, p. 215). This is confirmed by other monitoring results according to which defendants in 37% of observed cases had no legal assistance, including free defence, which was caused by the failure of judicial and other relevant officials to inform the defendants of the right to such assistance (see "Implementation of the Right to Fair Trial in the Armenian Judicial System" (Monitoring Results), Open Society Institute, Yerevan, 2009, p. 215). The latest OSCE/ODHIR report on trial monitoring also concludes that the quality of legal assistance rendered by the Public Defender's Office needs to be improved (see "Final Report Trial Monitoring in Armenia", Warsaw, March 2010, p.8).
	To what extent are there adequate interpretation services		1		According to Article 19 of the RA Judicial Code, the court ensures provision of an interpretation service, at the expense of the state, to persons taking part in a criminal case who do not speak Armenian.

Objective 1: Strengthening the Judiciary - continued					
Sub-objective	Indicators	Scale of compliance			Notes and sources
		Full	Partial	None	
		2	1	0	
	(e.g. for non-native language or deaf court users) in place in the court system?				The same article states that the court ensures provision of an interpretation service, at the expense of the state, for physical persons taking part in administrative cases and certain civil cases stipulated by the law if they do not speak Armenian and prove that they do not have sufficient means to provide interpretation. However, according to the interviewed advocate¹⁶, though judges are interested in having an interpretation service to ensure a court hearing, the quality of interpretation is not always good. According to Article 19 of the RA Judicial Code and Article 46 of the Civil Code, one of the parties in the trial is supposed to pay for interpretation (which is quite costly), and the parties cannot always afford a qualified interpreter, which in its turn negatively affects the hearing process. In some cases, though, if the interested party proves his/her inability to pay, the costs of interpretation are covered by the state (see Article 19 of the RA Judicial Code). The last opinion was also supported by the former judge¹⁷. One of the legal experts¹⁸ thinks that the payment of the cost of interpretation by one of the parties in the case, rather than by the state, may lead to partiality on the part of the interpreter. No special provision is available for deaf persons, but in practice the situation is similar to the situation for interpretation, as mentioned by several legal practitioners.
SCORE (Access to Justice)	2/4 (50.0%)				

¹⁶ Interview of the project researcher with Ruben Sahakyan, Chair, the Chamber of Advocates, Yerevan, 2 March 2010.

¹⁷ Interview of the project researcher with the former judge, Yerevan, 18 March 2010.

¹⁸ Interview of the project researcher with Hrayr Ghukasyan, Law Professor, Yerevan State University, Yerevan, 31 March 2010.

Objective 1: Strengthening the Judiciary - continued						
Sub-objective	Indicators		Scale of compliance			Notes and sources
			Full	Partial	None	
			2	1	0	
Ensure judicial sector has adequate resources to carry out its functions	Financial Resources	To what extent are changes in the overall judicial budget commensurate with the growth of the national budget and also reflective of changes in demands for judicial services?		1		According to the reference given by the RA Judicial Department, international experience indicates that a fixed percentage of the national budget is to be allocated to the judiciary. Diverging from this best practice, a fixed amount -- rather than percentage -- is provided for the Armenian judiciary from the national budget. There is no legal regulation of the compatibility of changes in the judicial budget with the growth of the national budget.
	Human Resources /Capacity	Are there procedural rules in place to discourage excessive adjournments; ensure judges have adequate time to hear cases and prepare judgments; and ensure that appeals are heard without undue delay?		1		According to Article 111 of the RA Law on Civil Procedure Code, a case is to be considered and a ruling made within a reasonable period, and a procedure, as a rule, is to be completed within one session. According to Article 17 of the RA Criminal Procedure Code, everybody has a right to a fair trial of any criminal case affecting one's interests, within a reasonable time and in observance of all requirements of fairness, by an independent and impartial court. In opinion of the interviewed legal expert and lawyers¹⁹, the fact that there is no specification of what time can be considered "reasonable" leaves room for interpretation and leads to arbitrary decisions by judges who may delay the case depending on their convenience or personal interests.

¹⁹ Interviews of the project researcher with Hrayr Ghukasyan, Law Professor, Yerevan State University, Yerevan, and two lawyers, Yerevan, 31 March 2010.

Objective 1: Strengthening the Judiciary - continued						
Sub-objective	Indicators		Scale of compliance			Notes and sources
			Full	Partial	None	
			2	1	0	
	Human Resources /Capacity	In practice, are cases heard and judgments handed down without lengthy delays and excessive adjournments?		1		According to the reference provided by the Judicial Department, studies and summaries regarding procedure periods are carried out periodically. These are having a positive impact on the regulation of this issue. It is also mentioned that the European Court has thus far recorded no breaches of reasonable period in the RA. One of the four removed judges was accused of prolonging “reasonable time” and delaying a case hearing for four months (see Aravot daily, 2 May 2006). Moreover, in the opinion of the advocate²⁰, delayed cases are commonplace in the courts, especially with respect to criminal offences. As a rule, the first hearing is always delayed. Causes for delays range from a judge’s expectation of a bribe to a badly organised judicial staff. As noted by the former judge²¹, cases are very often delayed. The main reason is an expected gain, mainly in the form of a bribe to speed up the trial process. The interviewed legal expert²² also referred to an existing practice of unjustified delays in many cases, aimed at forcing parties to start “negotiations” with the judge. In the opinion of the former prosecutor²³, delays normally take place in cases involving political prisoners or/and when there is “an order” from the top leadership to slow down the trial because of personal interests.
	Human Resources /Capacity	To what extent does each judge have the basic tools necessary to do his or her job, e.g.		1		Article 79 of the RA Judicial Code stipulates that each judge of the common jurisdiction courts and the Court of Appeal shall have an assistant, a secretary, and in some cases also a consultant, while the chairman, chairmen of chambers and judges of the Court of Cassation have two assistants each. According to the RA Judicial Department, each judge has a separate

²⁰ Interview of the project researcher with Ruben Sahakyan, Chair, the Chamber of Advocates, Yerevan, 2 March 2010.

²¹ Interview of the project researcher with the former judge, Yerevan, 18 March 2010.

²² Interview of the project researcher with Hrayr Ghukasyan, Law Professor, Yerevan State University, Yerevan, 18 March 2010.

²³ Interview of the project researcher with the former prosecutor, Yerevan, 23 March 2010.

Objective 1: Strengthening the Judiciary - continued						
Sub-objective	Indicators		Scale of compliance			Notes and sources
			Full	Partial	None	
			2	1	0	
		sufficient office space, adequate support staff, word processing equipment, a law library (whether physical or online), etc.?				office; the courts have staff, necessary equipment, internet access, a continuously updated library, and DETALEX information tanks. Measures stipulated by the 2009-2011 strategic action plan of procedural reforms include: improvement of court building facilities and technical equipment, in particular construction of at least 10 new court buildings and equipping of two existing ones with organisational supplies in three stages. However, the reform process is in progress and not all of the court facilities are fully provided, particularly in some regions.
SCORE (Judicial Resources)	4/8 (50.0%)					
Improve transparency of judiciary	To what extent are courtroom proceedings required by law to be open to the public and the media?		1			According to Article 20 of the RA Judicial Code, courtroom proceedings in RA are public. A court hearing or a part thereof is held in camera only by a court decision, for reasons of protecting public morals, public order, national security, the lives of persons taking part in proceedings, or the interests of justice. Hearings of adoption cases are also held in camera if such a request has been made by the adopting party. The final part of a judicial act is made public in an open session. In adoption cases, the final part of a judicial act may be made public only with the adopting party's consent. According to Article 114 of RA Civil Procedure Code, filming and photographing of court sessions, as well as video recording and radio and television broadcasting, is performed by consent of the parties and by permission of the court. Some experts noted that this provides an opportunity for judges to limit the openness of proceedings. From a criminal law perspective, according to Article 314 of RA Criminal Procedure Code of RA, the orders of the presiding judge are mandatory for all who are present at the court session. In the opinion of legal experts, this power to make a decision without any limitation or condition also creates an opportunity for the corrupt judicial practice of making an arbitrary decision to get rid of journalists and the public.

Objective 1: Strengthening the Judiciary - continued					
Sub-objective	Indicators	Scale of compliance			Notes and sources
		Full	Partial	None	
		2	1	0	
					According to Article 72 of the RA Judicial Code, the Council of Chairs of the Courts develops and approves rules of co-operation of courts with mass media.
	In practice, are courtroom proceedings generally open to, and able to accommodate, the public and the media?		1		According to the RA Judicial Department, courtroom proceedings are held publicly in Armenia, except for certain cases stipulated by law, which ensures open access to the courtroom both for citizens and for mass media However, there are some monitoring findings proving that this is not always true in practice. “Final Report Trial Monitoring in Armenia”, Warsaw, March 2010 (see p.8) shows that a number of shortcomings such as limited or restricted access to court premises, inaccuracy of court schedules, poor acoustics and lack of technical equipment in courtrooms prevent the public from following trial proceedings. The report indicates that “on several occasions, members of the public were removed from the courtroom without prior warning for applauding defendants” (see p. 32). Other monitoring findings related to assessment of the fair trial situation showed that the conditions of court buildings and technical equipment inside the buildings can ensure neither the effective work of the courts nor public access to hearings (see “Implementation of the Right to Fair Trial in the Armenian Judicial System” (Monitoring Results), Open Society Institute, Yerevan, 2009, p. 214). In opinion of the interviewed advocate²⁴, in some “big” cases the courtrooms do not have enough space for all those willing to be present at the hearings, but this does not happen often. In some cases, mainly political ones, there is a practice of filling the room with people from state institutions without revealing their institutional affiliation so as not to allow relatives, journalists, or opposition supporters to be present. The interview with the former judge²⁵ and the former prosecutor²⁶ also revealed such a problem.

²⁴ Interview of the project researcher with Ruben Sahakyan, Chair, the Chamber of Advocates, Yerevan, 2 March 2010.

²⁵ Interview of the project researcher with the former judge, Yerevan, 18 March 2010.

²⁶ Interview of the project researcher with the former prosecutor, Yerevan, 23 March 2010.

Objective 1: Strengthening the Judiciary - continued					
Sub-objective	Indicators	Scale of compliance			Notes and sources
		Full	Partial	None	
		2	1	0	
					This practice was also mentioned in “Final Report Trial Monitoring in Armenia”, Warsaw, March 2010. As indicated in the report, “law enforcement officers in civilian clothing were granted privileged access to the courtrooms on some occasions, while members of the public were told that no seats were available” (see p. 31). Media reported about similar cases as well (see armtoday.info/default.asp?Lang=Am&NewsID=8015&SectionID=0&RegionID=0&Date=03/07/2010&PagePosition=6, www.hraparak.am/hodvac.php?h_id=4565).
	To what extent does the law require that judicial decisions be published and open to public scrutiny?		1		According to Article 68 of the RA Judicial Code, judicial acts (judgments) of the Cassation Court shall be published in the RA Official Bulletin, as well as on the official website of the RA judiciary. As stipulated by Article 67 of the same code, such information shall to be posted on the website managed by the RA Judicial Department in a way that is publicly accessible. However, other decisions of the Cassation Court are not required to be published. The RA Council of Chairs of the Courts defines the procedure for publishing other judicial acts on the official website of the RA judicial authority. Nevertheless, in this case also not all verdicts and decisions are to be published. It is up to the Council to decide which decisions should be open to the public.
	Are judicial decisions published?		1		According to the reference from the RA Judicial Department, judicial decisions are published on the official website of the RA judicial authority and the judicial acts of the Court of Cassation are published in the RA Official Bulletin. Nevertheless, monitoring of the court hearings demonstrated that the decisions made at hearings are not always made public, and sometimes court decisions are not published in full (see “Implementation of the Right to Fair Trial in the Armenian Judicial System” (Monitoring Results), Open Society Institute, Yerevan, 2009, p. 17).
	To what extent does the law require that a transcript of courtroom	2			According to Article 146 of the RA Civil Procedure Code, which defines the form of transcript of courtroom proceedings, a record is compiled at the court sessions of the court of first instance, court of

Objective 1: Strengthening the Judiciary - continued					
Sub-objective	Indicators	Scale of compliance			Notes and sources
		Full	Partial	None	
		2	1	0	
	proceedings be maintained and made available to the public?				cassation and court of appeal, as well as outside court sessions when performing separate judicial actions. Records kept at court sessions of the court of first instance, court of cassation and court of appeal, as well as outside court sessions performing separate judicial actions, are attached to the materials of a case. As provided by Articles 315 and 148 of the RA Criminal and Civil Procedural Codes, only persons participating in the case have a right to become acquainted with the materials of the case or to make excerpts and copies thereof. Article 20 (4) of the RA Judicial Code provides that after the court verdict has been enforced, all members of the public can request materials of the completed case, along with transcripts of the proceedings. A state duty of 1,000AMD (~ US \$2.50) is to be paid for each request (see Article 9 (13) of the RA Law on State Duty).
	Is a transcript or some other reliable record of courtroom proceedings maintained and available to the public?	2			According to the reference provided by the RA Judicial Department, courtrooms are furnished with modern equipment, including “Femida” recording devices, with the help of which court sessions are audio-recorded on an electronic device and attached to the materials of the case. There is no evidence to suggest that the records are not available upon request.
SCORE (Transparency)	8/12 (66.6%)				

Objective 1: Strengthening the Judiciary - continued					
Sub-objective	Indicators	Scale of compliance			Notes and sources
		Full	Partial	None	
		2	1	0	
Judicial Enforcement					
Increase the effectiveness of enforcement of judicial acts	To what extent are there provisions in place which describe the role, organisation, status and training of enforcement agents, i.e. those responsible for carrying out the enforcement process (e.g. enforcement and other judicial officers)?	2			The functioning of the service responsible for enforcement is regulated by the RA Judicial Code and the RA Law on Judicial Service, RA Law on Compulsory Enforcement of Judicial Acts, and the RA Law on the Service of the Compulsory Enforcement of Judicial Acts. These laws regulate the activities of bailiffs and officers of the compulsory enforcement service responsible for enforcement process. Articles 18 and 19 of the RA Law on the Service of the Compulsory Enforcement of Judicial Acts define the rights and responsibilities of enforcement agents, and Article 20 defines the powers of the RA Ministry of Justice in organising the compulsory enforcement service. Article 14 of the same law considers the issue of mandatory training of enforcement agents. The activities of bailiffs are regulated by Articles 194 to 228 of the RA Judicial Code. Article 213, for instance, defines the functions of a bailiff. Article 209 of the RA Judicial Code stipulates that bailiffs shall receive special training according to the procedures approved by the head of the Judicial Department, upon submission from the head of the Bailiff Service.
	In practice, to what extent are enforcement agents well trained in enforcement practices and procedures?				According to the official letter from the RA Service of the Compulsory Enforcement of Judicial Acts, dated 11 March 2010, mandatory training and special educational programmes for enforcement agents are regularly conducted based on the RA Government Decision N154 of 10 February 2005. Training is carried out by the Law Institute of the RA Ministry of Justice of RA, in co-operation with the RA Service of the Compulsory Enforcement of Judicial Acts, while the lists of trainees and educational programmes are approved by the RA Ministry of Justice.

Objective 1: Strengthening the Judiciary - continued					
Sub-objective	Indicators	Scale of compliance			Notes and sources
		Full	Partial	None	
		2	1	0	
			1		The former judge²⁷ mentioned that, as a rule, people who had unsuccessful careers in the police and national security service tend to become enforcement agents. Those agents whom he met in the course of performing his professional duties did not appear to be well trained. The media reported one case in which enforcement agents performed their duties without following the court decision in a precise manner (see news.am/am/news/10298.html). As for bailiffs, as judicial servants they are subject to relevant provisions of the RA Judicial Code. According to Article 27 of this code, all judicial servants must be trained based on procedures approved by the Council of Chairs of the Courts. Article 175 of the code provides that the RA Judicial School organise and conduct professional training of judicial servants. The OSCE/ODIHR Final Report on Trial Monitoring Project in Armenia, Warsaw, March 2010, referred to evidence suggesting that a core function of the court bailiff service, to assist the public in exercising their right to access court proceedings, is not ensured. As reported, “a serious effort should be made to ensure that court bailiffs understand and perform this function properly” (see p. 34).
	To what extent are enforcement agents bound by ethical and professional standards as outlined in a written code of ethics?	2			The RA Council of Chairs of the Courts approved the Code of Conduct of Judicial Servants in its Decision of 16 November 2007. There is also a code of ethics for enforcement agents ensured by Article 35 of the RA Law on the Service of Compulsory Enforcement of Court Acts. This code was approved on 19 February 2009, by the RA Government Decision #157-N. No information is available about a special code of ethics for bailiffs, though formally they are subject to the Code of Conduct of Judicial Servants.

²⁷ Interview of the project researcher with the former judge, Yerevan, 18 March 2010.

Objective 1: Strengthening the Judiciary - continued					
Sub-objective	Indicators	Scale of compliance			Notes and sources
		Full	Partial	None	
		2	1	0	
	To what extent is this code followed in practice?		1		The majority of experts and practitioners from various fields believe that not a single code of ethics is effectively enforced in Armenia. In a recent interview, one state official confirmed that currently there are no effective mechanisms to regulate ethical issues related to state officials (see Hetq weekly, 11-17 March 2010). In addition, the media refers to improper and unethical behaviour by enforcement agents in the performance of their professional duties (see hetq.am/am/politics/press-35/, v4.a1plus.am/am/politics/2009/08/31/armen-harutyunyan, www.lragir.am/armsrc/country33002.html). As indicated by the OSCE/ODIHR Final Report on Trial Monitoring Project in Armenia, Warsaw, March 2010, "Occasionally, the monitors observed seemingly arbitrary decisions made by the bailiffs themselves to expel particular individuals from the court premises and/or deny them access to the courtroom. In some cases the bailiffs were hostile and impolite towards the relatives of defendants, monitors, and other members of the public" (see p. 31). Based on observation findings, the report recommends "The Ministry of Justice jointly with the Council of Court Chairpersons ...(to) promulgate a Code of Conduct for the bailiff service that would clearly spell their rights and professional duties vis-à-vis the judge, the court personnel, participants of the trial, and the public" (see p. 93).
SCORE (Enforcement)	6/8 (75.0%)				

Objective 1: Strengthening the Judiciary - continued					
Sub-objective	Indicators	Scale of compliance			Notes and sources
		Full	Partial	None	
		2	1	0	
Judicial Integrity					
Establishment of a code of ethics for prosecutors and judges	To what extent are judges and other relevant actors governed by written codes of ethics which cover issues such as conflicts of interest, inappropriate political activity, etc.?	2			Chapter 12 of the RA Judicial Code is entirely dedicated to the code of conduct for judges. Pursuant to section 1.3 of the 2009-2011 strategic action plan of the Judicial-Legal Reform approved by the RA president on 12 February 2010, the draft amendment of the Code of Conduct for Judges, approved by the RA Council of Court Chairmen in 2005, was presented for approval by the RA Council of Courts. The process of approval has not yet been completed. Rules of conduct for prosecutors were instituted in the Prosecutors' Code of Conduct, approved by the RA prosecutor general in 2007. Advocates also have a code of ethics approved in 2006 by the Chamber of Advocates.
	To what extent is this code of ethics applied in practice?		1		As mentioned above, experts and even practitioners believe that ethics regulation is not effective in Armenia. Some of them mention that a sense of corporate solidarity negatively affects the decision-making process when it comes to sanctions against colleagues. Others say that ethical values cannot be respected in a system where material benefits are most valued. As a result, relatively few cases of misconduct by judges and other actors in the judicial processes were considered last year. Only three cases related to misconduct of judges were considered by the ethics committee in 2009; no penalty was applied in any of the cases. The OSCE/ODHIR Final Report Trial Monitoring in Armenia, Warsaw, March 2010, mentioned a number of cases in which "...the judges conducted proceedings in a manner that left their impartiality open to doubt" (see p. 9). There were also instances in which judges treated trial participants without due respect. Therefore, there is a need for additional training of judges and "...a rigorous application of disciplinary mechanisms that ensure their accountability".

Objective 1: Strengthening the Judiciary - continued					
Sub-objective	Indicators	Scale of compliance			Notes and sources
		Full	Partial	None	
		2	1	0	
					As for prosecution, only two prosecutors were under consideration for unethical behaviour last year and both were dismissed. According to the data obtained from the Chamber of Advocates, in 2009 their special commission considered 29 cases, of which 16 were dismissed.
SCORE (Code of Ethics)	3/4 (75.0%)				
TOTAL SCORE (Judicial Reform)	46/64 (71.8%)				

Objective 2: Civil Service Reform					
Sub-objective	Indicators	Scale of compliance			Notes and sources
		Full	Partial	None	
		2	1	0	
Independence, accountability and transparency of civil service	To what extent are there regulations which prevent undue political interference in the appointment and promotion of civil servants?	2			Appointment and promotion of civil servants is regulated by the RA Law on Civil Service through the open competition announced for vacant positions (see Article 14) and attestation (see Article 19). Article 14 provides that competition for the highest and senior vacant civil service positions is to be organised by the RA Civil Service Council (CSC) staff, while competition for the leading and junior positions is conducted by the staff of the corresponding bodies. Members of competition and attestation commissions are representatives of the CSC (one third), the respective body (one third) and academia (one third). The competition process includes two stages, the test and the interview, the results of which are evaluated by competition commissions, members of which vote for each applicant. The head of the corresponding body (in the case of the highest and senior positions) or the head of staff (in the case of the leading and junior positions) then appoints someone from the list of candidates who have passed the minimum threshold (see Article 14). Each civil servant is subject to attestation once every three years. In some cases, extraordinary attestation can be carried out upon a justified decision of the supervisor of a civil servant. Depending on a civil servant's rank, attestation can be conducted through a review of documents and an interview, or a test and an interview. Attestation commissions vote on each attesting civil servant and submit the results of attestation to those

Objective 2: Civil Service Reform - continued					
Sub-objective	Indicators	Scale of compliance			Notes and sources
		Full	Partial	None	
		2	1	0	
					officials who are authorised to make a final decision within the corresponding bodies (see Article 19).
	To what extent are recruitment and promotion regulations effective in preventing political interference (e.g. are selection committees able to work without political interference)?		1		In the expert's opinion, the CSC and the competition and attestation commissions are also subject to external pressure. This pressure is especially significant in the case of "profitable" or "privileged" positions. A Head of CSC Manvel Badalyan mentioned in a media interview, there is pressure on the institution that he heads, but this pressure comes not from politicians but rather from relatives, friends and neighbours (see hetq.am/am/interview/manvel-badalyan-2/). Furthermore, there are no clear criteria or requirements for final decisions on appointment or promotion of civil servants. This leaves room for discretionary and biased decisions by corresponding officials. It is up to the minister or the head of staff to hold an open competition for a vacant position or to promote his/her deputies or other loyal servants. Very often, it is the loyalty of potential employees, kinship or friendship ties, or favours to colleagues or superiors, rather than professional or institutional interest, that matter when appointing or promoting civil servants. Recently, the media reported on one case in which the competition was carried out with obvious violations to promote a candidate under the patronage of the head of that institution (see Hraparak daily, 30 March 2010). When it comes to a "privileged" position with more opportunities to benefit from corruption, bribery or political pressure may play a more determining role.

Objective 2: Civil Service Reform - continued					
Sub-objective	Indicators	Scale of compliance			Notes and sources
		Full	Partial	None	
		2	1	0	
					An interview with a former high-level civil servant²⁸ confirmed the opinion of the experts mentioned above. Moreover, he said that questions in both tests and interviews are so simple that even a person with a low level of basic knowledge can clear this selection hurdle and be appointed in the case of patronage or kinship. He personally faced such a situation when people not meeting professional criteria for a particular position were appointed because of intervention from the “top”. On the other hand, there are cases in which the winning candidate is not appointed, without justification from a corresponding official, which may be a result of pressure or personal interest. In media interviews, Head of CSC Manvel Badalyan has confirmed the existence of all of the aforementioned problems (see hetq.am/am/interview/manvel-badalyan-2/ and <i>Iravunk de facto</i> weekly, 22-25 January 2010).
	To what extent are there comprehensive regulations regarding political activities of existing civil servants (e.g. political party membership, expression of political views)?	2			According to Article 11 of the RA Law on Civil Service, citizens of the RA meeting the requirements for a given position, knowing the Armenian language, having reached 18 years of age, have the right to occupy a civil service position regardless of their political or other convictions. Thus, the law does not limit the opportunity to occupy a civil service position based on political or other convictions (see Article 12). At the same time, Article 24 of the law defines that a civil servant does not have the right to violate the principle of the political neutrality (restrain) of a civil servant. The law says that a civil servant shall not use his/her position to serve the interests of parties, non-governmental organisations or religious associations, to proselytise in their favour or to be involved in other political or religious

²⁸ Interview of the project researcher with the former civil servant, Yerevan, 24 March 2010.

Objective 2: Civil Service Reform - continued					
Sub-objective	Indicators	Scale of compliance			Notes and sources
		Full	Partial	None	
		2	1	0	
					activities while carrying out his/her duties. Such actions are recognised by Article 33 of the law as grounds for relief from the civil service position.
	To what extent are these regulations enforced?		1		Officially, not a single civil servant has been relieved in the last three years for failure to maintain the restrictions applied against civil servants with respect to the principle of political restraint. Moreover, media have repeatedly mentioned that the ruling parties normally use the employees of the state institutions (including civil servants) in their pre-election campaigns and on the voting day (see www.transparency.am/monitor_archive_2008.php and www.transparency.am/monitor_archive_2009.php). Experts believe that the existing regulations are “effectively” applied by authorities only when it comes to the so-called “radical” opposition. If a person occupying a civil servant position announces his/her political preferences in favour of the real opposition or expresses an alternative position to the one which is considered official, then he/she faces a risk of being dismissed, though the reasons mentioned in the order or decision are never acknowledged to be political. In some cases, people were forced to quit upon their own request. In other cases, they were fired for reasons far from the real ones. There are numerous references to such cases of de-facto political repression following the tragic post-elections developments in Armenia in 2008 (see Aravot daily, 14 February 2008; www.usa.am/news/2009/february/news022509_arm.pdf, pp. 45-46; www.nt.am/newsday.php?p=0&c=0&t=0&r=0&year=2008&month=05&day=14&shownews=1003734&LangID=4#1003734).

Objective 2: Civil Service Reform - continued					
Sub-objective	Indicators	Scale of compliance			Notes and sources
		Full	Partial	None	
		2	1	0	
	To what extent are there legal requirements for the disclosure/declaration of personal assets, income, financial interests for civil servants?	2			Declaration of assets and income is mandatory for the RA civil servants according to Article 5 (9) of the RA Law on Declaration of Property and Income of Physical Persons, adopted in 2006. According to the same article, an assets and income declaration is also required from persons related to civil servants (as well as other state officials): spouse, parents living together, and children, sisters and brothers living together and aged 18 years or older. Article 17 of the law provides that to verify the reliability of the data presented in the declaration, the tax authority (under the RA State Revenue Committee) can perform a study at the site of the other party of the transaction. The fine to be imposed for not submitting declarations equals 10% of undeclared income (see Article 20). The fine of 10% of hidden or underestimated income can be imposed in cases of hiding real income or not submitting full information on it (see Article 21). According to Article 169.17 of the RA Law on Administrative Violations, failure to present the declaration to the tax authority in the specified time (for each tax year, up to April 15 of the following year) results in a warning. Failure to present the declaration within 30 days following the warning causes a penalty in the amount of thirty times the minimum salary, and for persons occupying political or discretionary positions in the amount of 200 times the minimum salary.
	To what extent does disclosure of personal assets, income, financial interests of civil servants occur in practice?		1		To ensure public monitoring of the effectiveness of disclosure of assets and income of civil servants it is necessary to have access to those data. Such information can be obtained using the 2003 RA Law on Freedom of Information. For example, in 2009 the Freedom of Information Center NGO applied to tax authorities with such a request and received declarations

Objective 2: Civil Service Reform - continued					
Sub-objective	Indicators	Scale of compliance			Notes and sources
		Full	Partial	None	
		2	1	0	
					made by high-level state officials (see www.foi.am/en/content/101/). In addition, there is a special procedure to provide journalists with information concerning declarations (see the RA Government Decision N1065-N of 4 September 2008). This procedure, effective from 1 January 2009, relates only to the provision of information on income and property acquired by state officials during a particular year, but not on dynamics within a particular year or during previous years. Another weakness of this decision is said to be the fact that no information is provided with regard to persons related to state officials. In a media interview, one state official agreed with a journalist that this new procedure does restrict public access to declarations (see Hetq weekly, 11-17 March 2010). According to official sources, as of October 2009 216 declarers had been made answerable in 2008 for failure to submit declarations (see Hetq weekly, 12-18 November 2009). However, no specific data is available on how many of them were civil servants. Neither is specific information provided concerning the number of declarers who submitted wrong data (see ar.newsarmenia.ru/arm1/20080724/41919491.html). In an expert's opinion, the tax authorities (the RA State Revenue Committee) have no capacity or resources for checking the reliability of the submitted declarations. The necessary methodology and procedures are not in place either. As a result, tax authorities accumulate the relevant information, but do not verify it in a satisfactory manner. The media have also referred to the ineffectiveness of tax

Objective 2: Civil Service Reform - continued					
Sub-objective	Indicators	Scale of compliance			Notes and sources
		Full	Partial	None	
		2	1	0	
					authorities in collecting and verifying data related to income and assets of state officials (see www.idefacto.am/page.php?section=news_more&id=1008 and www.armenianow.com/hy/news/9969/business_or_office_skepticism_lin).
	To what extent are there legal regulations protecting civil servants against arbitrary dismissals or political interference?		1		According to the RA Law on Civil Service, the CSC is responsible for protecting civil servants against arbitrary dismissals and political interference (see Articles 32 and 37). The CSC has defined a procedure for conducting an in-service investigation (see the CSC Decision N 124-N of 22 November 2002). Manvel Badalyan, Head of CSC, sees the fact that a civil servant can be dismissed only with approval of CSC (based on results of the conducted in-service investigation) to be one of the advantages of the current civil service system in Armenia (see hetq.am/am/interview/manvel-badalyan-2/). However, experts believe that this mechanism only indirectly protects civil servants, while no specific regulations are in place. This makes possible the widespread practice of forcing civil servants to apply for dismissal upon their own request. Experts also mentioned the existing political and other external pressure on the CSC, which results in firing civil servants without solid evidence of their misconduct or poor performance.
	In practice, are the regulations protecting civil servants from arbitrary dismissal effective?		1		The concerns of experts expressed above are somewhat confirmed by the data provided by the CSC. According to this data, about half (48%) of civil servants were dismissed in 2008-2009 pursuant to their request, 25.4% because of staff reduction, 12.1% because of appointment to a position on non-competition basis, and 4.7% because of attestation and the age limit for occupying the position. Officially, not a single civil servant

Objective 2: Civil Service Reform - continued					
Sub-objective	Indicators	Scale of compliance			Notes and sources
		Full	Partial	None	
		2	1	0	
					has been dismissed during the last three years because of failure to maintain political restraint. There were numerous cases of dismissal of civil servants who supported the 2008 presidential candidate Levon Ter-Petrosyan. The opposition supporters were either dismissed from their positions with justifications other than those related to their political affiliation or forced to write a dismissal request before and after the tragic events in March 2008 (see the US State Department's 2008 Human Rights Report on Armenia, pp. 45-46). There were also media publications confirming such practices (see Aravot daily, 14 February 2008 and www.nt.am/newsday.php?p=0&c=0&t=0&r=0&year=2008&month=05&day=14&shownews=1003734&LangID=4#1003734).
SCORE (Independence, Accountability and Transparency)	11/16 (68.7%)				
Human Resources	To what extent are wages in the civil service competitive enough to sustain an appropriate standard of living for civil servants, in accordance with the country's economic situation?		1		Official salary rates and bonuses for civil servant positions are regulated by the RA Law on Payment of Civil Servants (see Articles 6-14). The average salary in state service is 112,502 AMD (~ US \$280) per month, which has increased by 4.2% relative to the previous year (see "The 2009 Report on the Amount of Basic Salaries of Civil Servants and Payment System: Protocol Decision of the RA Government # 46 from 6 November 2009"). The basic monthly salary of civil servants is 40,000 AMD (US \$100), which exceeds the minimum consumer basket for 2009 (35,756.5 AMD or about US \$89) by only 13% (see www.b24.am/economy/ra_05112009.html). Some experts question the validity of the methodology

Objective 2: Civil Service Reform - continued					
Sub-objective	Indicators	Scale of compliance			Notes and sources
		Full	Partial	None	
		2	1	0	
					used for calculating the minimum consumer basket. Additionally, an average family in Armenia consists of 3.8 persons (see "The 2009 Report on the Amount of Basic Salaries of Civil Servants and Payment System: Protocol Decision of the RA Government # 46 from 6 November 2009"), while because of the high unemployment rate normally only one adult in a family works. Taking this into consideration, experts conclude that the wages are not sufficient to sustain appropriate living standards. The head of the CSC confirmed in an interview that salaries of civil servants are very low (see Iravunk de facto weekly, 22-25 January 2010). Moreover, he mentioned that there is no system of securing medical insurance and special pensions for civil servants, which makes civil service unattractive for potential employees. He also said that while many positions remain vacant, there is a great deal of interest in applying for positions in the control, review, licensing and inspection bodies. Experts explain such interest through the opportunity to benefit from getting bribes.
Training	To what extent are there legal provisions to ensure that civil servants are regularly trained to improve their technical and managerial competencies?	2			Article 53 of the RA Law on Civil Service defines that the initial training, which is mandatory for civil servants, should be carried out in accordance with the curricula developed by the RA School of Public Administration and approved by the CSC. Initial training was mainly dedicated to the newly created civil service system, dealing with legislation and regulations as well as some ethical issues. Article 20 of the law provides that every civil servant should be trained once every three years. In addition to this, a civil servant should be trained to improve his/her professional knowledge and skills as necessary (e.g. in case of upgrading a position or changing a specialisation). For this purpose, a civil servant can spend one year or more on professional training outside of his/her institution.

Objective 2: Civil Service Reform - continued					
Sub-objective	Indicators	Scale of compliance			Notes and sources
		Full	Partial	None	
		2	1	0	
					According to CSC Head Manvel Badalyan, all training programmes for civil servants following the first one have aimed to address issues related to specifics of professional work for each type of institutions in which civil servants work (see Iravunk de facto weekly, 22-25 January 2010). He said that leading specialists from universities and state institutions were involved in training programmes as lecturers on various topics. Occasionally, the assistance of international institutions is also used to train civil servants on specific issues such as access to information (see Hayastani Hanrapetutyun daily, 29 March 2008).
	In practice, is it the case that civil servants are regularly trained to improve their technical and managerial competencies?		1		According to the interviewed former civil servant²⁹, the quality of training programmes organised for civil servants time to time is very poor. There is an obvious lack of professionals to carry out high-quality training programmes. CSC Head Manvel Badalyan agreed that there is a lack of local resources, both human and financial, to ensure proper training. This is why respective authorities look for new opportunities to improve the quality of training programmes and seek assistance from donors (see Iravunk de facto weekly, 22-25 January 2010). Thus, on 17 November 2009, a memorandum of understanding was signed by the RA Ministry of Economy, the RA Civil Service Council, and the British Council within the 'EU Skills' three-year project. European expertise and standards will be used to develop the skills and knowledge of the Armenian officials (see www.mineconomy.am/am/2/item/1119/).

²⁹ Interview of the project researcher with the former civil servant, Yerevan, 24 March 2010.

Objective 2: Civil Service Reform - continued					
Sub-objective	Indicators	Scale of compliance			Notes and sources
		Full	Partial	None	
		2	1	0	
	To what extent are there provisions to ensure that civil servants are regularly trained about ethics, integrity and codes of conduct in the civil service?			0	There are no provisions in the civil service legislation with regard to ethics and integrity training.
	In practice, is it the case that civil servants are regularly trained about ethics, integrity and codes of conduct in the civil service?			0	As experts noted, except for the initial training, which included some ethical issues, no training for civil servants was in place to address ethical and integrity issues on a regular basis. The interviewed former civil servants ³⁰ shared the aforementioned opinion.
SCORE (Human Resources)	4/10 (40.0%)				
Integrity	To what extent are there legal provisions in place to protect whistleblowers in the civil service?			0	There are no legal provisions in place to protect whistleblowers.
	To what extent are whistleblowers in the civil service protected in practice?			0	According to the experts' opinion, there is no protection for whistleblowers. The interviewed former civil servant ³¹ shared this opinion.
	To what extent are comprehensive codes of conduct regarding conflicts of interest, rules on gifts and hospitality, post-employment restrictions, etc. for civil servants in place?		1		The conduct of civil servants is regulated by the RA Law on Civil Service (see Article 24). The law restricts the activity of civil servants in some cases that involve conflicts of interest. In particular, civil servants cannot: - Be engaged in other paid work, except for scientific, teaching and creative work, - Be personally involved in entrepreneurial activity, - Represent third persons if the case is related to

³⁰ Interview of the project researcher with the former civil servant, Yerevan, 24 March 2010.

³¹ Ibid.

Objective 2: Civil Service Reform - continued					
Sub-objective	Indicators	Scale of compliance			Notes and sources
		Full	Partial	None	
		2	1	0	
					the state institution they work for, - Use their official position while performing their work responsibilities to protect the interests of parties and NGOs, - Receive honorariums from publications or speeches originating from their official duties, - Use material, financial and information resources and other public property and service information for non-service purposes, - Receive gifts, money or services for performing their service duties as representatives of the state, - Sign property-related contracts and transactions. In the event that a civil servant has a 10% or higher share in the statutory capital of a commercial organisation, the civil servant shall, immediately after occupying the position, hand over this share for entrusted management. Civil servants also do not have the right to work under direct supervision of a close relative. The legislation defines some post-employment restrictions as well. At the same time, according to Article 37 of the same law, it is the CSC that defines the regulations of ethics for civil servants as well as the procedure for formation of ethics committees and activities and the functions thereof. In 2002, the CSC approved a non-comprehensive code of ethics for civil servants, which consists of one page and thus only briefly reflects on some of the issues noted above (see the CSC Decision # 13-N from 31 May 2002). It also approved the Order on the Ethics Commissions (see the CSC Decision # 1050-N from 1 December 2004). However, ethics commissions were established (as a pilot project with World Bank assistance) only in three ministries: the Ministries of Labour and Social Issues, Health and Education.

Objective 2: Civil Service Reform - continued					
Sub-objective	Indicators	Scale of compliance			Notes and sources
		Full	Partial	None	
		2	1	0	
	To what extent are these codes of conduct followed in practice?			0	According to the expert, no official statistics are publicly available with regard to the number of disciplinary sanctions applied to civil servants for breaching the code of ethics. There is a common understanding among experts that regulations on ethics and conflicts of interest defined by the RA legislation on civil service as well as respective sub-legislative acts are not effectively enforced in practice because of the absence of political will and the lack of working mechanisms to regulate this field. In particular, experts pointed to the ineffective work of existing ethics commissions. This is also reflected in the interview with one of state officials, who said that ethics commissions do not work (see Hetq weekly, 11-17 March 2010). The former civil servant³² agreed with this assessment, while the CSC head confirmed that there is a problem of unregulated conflict of interest in the Armenian civil service system (see hetq.am/am/interview/manvel-badalyan-2/).
SCORE (Civil Service Integrity)	1/8 (12.5%)				
Public Procurement	To what extent do public procurement regulations exist requiring open competitive bidding as a general rule with exceptions regulated in the law kept to a minimum?	2			Article 17 of the RA Law on Procurement defines the procurement forms: tender, restricted tender, request for quotation, competitive negotiations and single-source procurement. The same article states that procurement is conducted on competitive basis, except in cases prescribed by the law, in which it is allowed to conduct procurement using its non-competitive forms (see Articles 19-23 and 44). Procurement procedures for some non-competitive forms are regulated by a number of decisions of the RA Government (# 2274-N from 8 September

³² Interview of the project researcher with the former civil servant, Yerevan, 24 March 2010.

Objective 2: Civil Service Reform - continued					
Sub-objective	Indicators	Scale of compliance			Notes and sources
		Full	Partial	None	
		2	1	0	
					2008, # 853-N from 5 June 2008 and # 1521-N from 17 December 2009). The most recent Government Decision # 1521-N (enforced on 28 January 2010) has toughened the conditions for single-source procurement. In particular, in order to reveal the trustworthiness of such procurement, selective reviews should be conducted. The officials whose actions or inaction have resulted in violation of the time schedule of procurement, and consequently in the necessity to conduct single-source procurement, should be held liable by law. The RA Law on Procurement also makes it clear that if certain norms defined by international convention(s) are different from those defined by this law, then the norms of the international convention take precedence (see Article 4). According to experts, the only deficiency of the legislation is that along with emergency situations, "other unforeseen" situations are also mentioned as one of the reasons for urgency of procurement. This is one of the pre-conditions allowing the conduct of single-source procurement (see Article 23). However, these "unforeseen situations" are defined neither by this law nor by any other legal act, which can lead to abuse of single-source procurement and presume high corruption risks.
	In practice, to what extent is open bidding the general rule for public contracts, with exceptions regulated in the law and kept to a minimum?		1		According to the data of the RA Ministry of Finance, in 2008 there was growth in the volume of non-competitive state procurement compared with previous years. While in 2007 the volume of single-source state procurement was equal to 11.7 billion AMD (US \$29.25 million), in 2008 it reached 12.2 billion AMD (US \$30.5 million). In 2009, the amount totalled 9.7 billion AMD (US \$24.25 million), which could be explained by the generally decreased volume of state procurement due to the financial-economic crisis.

Objective 2: Civil Service Reform - continued					
Sub-objective	Indicators	Scale of compliance			Notes and sources
		Full	Partial	None	
		2	1	0	
					Experts estimated the following ratios of the volume of procurement performed by open tender to the volume of single-source procurement: 10.03 in 2007, 8.38 and 5.32 in 2009. Taking into account that the lower this ratio, the worse the competitive environment of procurement, experts concluded that the competitive environment of procurement has substantially deteriorated in Armenia. The World Bank (WB) has also expressed its concern about the continued unjustified use of single-source procurement in the country (see "Armenia: Country Procurement Assessment Report", Report No. 49975-AM, Yerevan, 2009, p. 23). According to WB experts, the main reasons for the continued wide use of single-source procurement are lack of competition and the aforementioned weaknesses of the relevant legislation.
	To what extent are there detailed formal rules (weighting evaluation criteria, use of price lists, certified quality standards, awards set by committees, etc.) to ensure objectivity in the contractor selection process?		1		The impartiality of contractor selection is ensured through the regulation of opening, evaluation and comparison of the bids submitted by the bidders (see Articles 33 and 34 of the RA Law on Procurements). In particular, Article 33 of the law defines that the bids shall be opened at the time mentioned in the tender invitation, at a session of the tender commission, and the day and time of the bid opening should coincide with the deadline of submission of the bids. Article 34 of the law regulates the evaluation and comparison of the bids submitted for tender. While performing these functions, the tender commission can require from the bidders explanations, which cannot lead to a change in the character of the bid or procurement item. The bid should be rejected if the bidder does not meet the qualification criteria defined by the tender invitation (see Article 27). According to the same article, the invitation content should also include the specification of the procurement items.

Objective 2: Civil Service Reform - continued					
Sub-objective	Indicators	Scale of compliance			Notes and sources
		Full	Partial	None	
		2	1	0	
					The tender commission then evaluates the approved bids. In addition to the bid price, non-price criteria defined by the RA Government should be taken into account. The RA Law on Procurement explicitly requires application of non-price criteria only in cases of procuring consultancy services (see Article 43). Article 37 of the same law regulates the summarising of the tender results. Within 15 work days following the last day of the submission of the tender bids, the summary session is convened, at which the selected bidder (winner) is announced or the relevant tender is declared as invalid (see Article 38). During that session, the second- and third-place bidders are announced as well, while the rest of the bids are rejected. In the experts' opinion, the following factors hinder the process of impartial selection of contractors and contain corruption risks in the procurement legislation: - Limited coverage of application of non-price criteria when evaluating the proposals; - Lack of a national register of suppliers of public procurement; - Lack of provisions regulating the use of price lists in the tenders; - Absence of public hearings for clarification of tender documents as practised in many countries.
	To what extent are these rules followed in practice?		1		According to local experts, a number of problems have occurred in the procurement system associated with selection of the contractor. The primary problem, which was also mentioned by the WB experts in their reports (see "Armenia: Country Procurement Assessment Report", Report No. 49975-AM, Yerevan, 2009, p. 25) is using the bid price as the only criterion for awarding the contract. As a result, guided by the criterion of the minimum price, the tenders are won by bidders who offer cheap but poor-

Objective 2: Civil Service Reform - continued					
Sub-objective	Indicators	Scale of compliance			Notes and sources
		Full	Partial	None	
		2	1	0	
					quality goods, services and works. In addition, tender commissions very often only formally check the grounds of the bid prices according to the procedure of calculation of the offered bid prices, and often decrease the qualification criteria for participants. Data from monitoring of procurement processes has indicated cases in which the tender commission, voicing the identified deficiencies in the bids, instead of rejecting them, decided to 'speak' to the RA State Procurement Agency, asking them to allow the particular participant to correct the identified deficiencies in the submitted bid and resubmit the same bid (see "Monitoring of the 2008-2009 activities of the State Procurement System in the Republic of Armenia", TI Anti-Corruption Center, Yerevan, 2010, p. 35). Delays of the timeframes defined by the law for evaluation and study of bids or awarding thereof have also been observed in the aforementioned monitoring (see p. 37). There were observed cases of superficial or vague information in the content of tender invitations. The same deficiencies were revealed in the specifications of the procurement items as well (see p. 38). The WB experts have also noticed such deficiencies, which are associated with the procuring entities' lack of ability to prepare technical specifications (see "Republic of Armenia: Country Report of Procurement Procedure Evaluation", Report No. 49975-AM, Yerevan, 2009, p. 24). Another set of deficiencies is related to insufficient professional capacities and the bias of tender commission members, as a result of which the commission members simply fail to perform or wrongly perform their duties, thus influencing the selection of the contractor.

Objective 2: Civil Service Reform - continued					
Sub-objective	Indicators	Scale of compliance			Notes and sources
		Full	Partial	None	
		2	1	0	
					Monitoring findings also indicate incorrect compiling of protocols of procurement procedures, pointless and/or improper interference by commission members during the sessions, failure to check or perfunctory checking of the grounds for bid prices, perfunctory review of compatibility of the bids with the requirements defined in the tender invitation package during the bid evaluation, etc. (see "Monitoring of the 2008-2009 Activities of the State Procurement System in the Republic of Armenia", TI Anti-Corruption Center, Yerevan, 2010, pp. 40-44).
	To what extent does the law provide for a procedure to request a review of and appeal against a procurement decision?		1		Article 16 of the RA Law on Procurement mentions that the authorised body of the procurement process (the RA Ministry of Finance) discusses complaints received about procurement transactions, checks these complaints, and takes decisions based on the results, which are subject to execution by the procurement entities. Articles 52-56 of the law regulate appeals by citizens of the actions of the procurement entity, the tender commission, and the authorised body. According to Article 52, every person has the right to lodge a complaint, if he/she declares that, because of the actions of the procurement entity and/or tender commission, he/she has or could have incurred losses. The person can make a complaint about the actions of the procurement entity or the tender commission not only through the authorised body but also judicially through court action. In the second case, he/she can also complain about the actions of the authorised body. Article 53 of the law states that complaints shall be submitted in writing and examined by a special unit created within the authorised body for the investigation of complaints and oversight of procurement processes, which then submits a recommendation to the authorised body. The procedures regulating the functioning of that unit are defined by the RA Government Decision # 853

Objective 2: Civil Service Reform - continued					
Sub-objective	Indicators	Scale of compliance			Notes and sources
		Full	Partial	None	
		2	1	0	
					from 5 June 2008. The time period during which the authorised body shall take a decision about the complaint is limited to no more than 20 days and no less than 10 days following the day of the receipt of the complaint. The decision of the authorised body is deemed final unless the court decides otherwise. The procurement entity becomes liable for the losses and is obligated to compensate them. Article 54 provides to every person the right to participate in the complaint process prior to a decision by the authorised body on the complaint. Article 55 entitles the authorised body to suspend the procurement process before a decision is made on the complaint, except in cases of the country's defence and national security interests. The actions and decisions of the procurement entity or tender commission, as well as those of the authorised body, can be appealed judicially through court action (see Article 56). Among the deficiencies of legislative regulation of procedures for appealing and revising decisions on procurement is a failure to make the nature of loss(es) more specific, which violates the rights of those physical or legal persons who have suffered moral loss(es). Another problem is that the non-judicial appeal system is not independent, as the RA Ministry of Finance is simultaneously responsible for both the organisation and the implementation of the procurement process, as well as for investigation and decision-making regarding complaints received about the same process.
	To what extent are these review mechanisms effective in practice?		1		According to the official public procurement website (www.gnumner.am), in 2008 the authorised body received 53 complaints, while in 2009 the number was 36. Statistical data indicates that at least half of the complaints are satisfied. At the same time, statistics shows that less than 10% of all tenders submit

Objective 2: Civil Service Reform - continued					
Sub-objective	Indicators	Scale of compliance			Notes and sources
		Full	Partial	None	
		2	1	0	
					complaints. As to the data provided by the RA Ministry of Finance to TI Anti-Corruption Center, during 2009 participants in the procurement processes appealed through court two decisions taken by the ministry. One of them was fully satisfied by the court and entered into force, while the other was satisfied partially. Within the monitoring of the 2008-2009 activity of the state procurement system by TI Anti-Corruption Center, the issues of efficiency of implementation of the existing appealing mechanisms have been discussed with representatives of applicant companies. On the condition of anonymity, the interlocutors have mentioned that because of the corrupt nature of the system they do not have any serious expectations from the appeal process. This, in particular, relates equally to both the authorised body and the judicial appeal. At the same time, these interlocutors mentioned that in terms of following the timeframes and the procedures, requirements of the legislation are normally not violated.
	To what extent is there a system in place to monitor public procurement as well as to detect misconduct and apply sanctions accordingly?		1		External control over the procurement process is mainly performed by the RA Chamber of Control (see Article 83 of the RA Constitution and Article 5 of the RA Law on the Chamber of Control) and by the RA National Assembly (see Article 77 of the RA Constitution and Articles 87-89 of the National Assembly Procedures). Civil society institutions can be involved as observers in procurement processes and can receive relevant information unless this information contains state or official secrets (see Articles 3, 9 and 16 of the Law on Procurement). In addition, representatives of NGOs can be a part of the unit created on a permanent basis for consideration of complaints and oversight of procurement process (see the RA Government Decision # 853-N from 5 June 2008).

Objective 2: Civil Service Reform - continued					
Sub-objective	Indicators	Scale of compliance			Notes and sources
		Full	Partial	None	
		2	1	0	
					The procurement entity and the authorised body also have the opportunity to oversee the quantity, quality and schedule of the goods, services and works provided by the supplier (see RA Government Decision # 1521-N from 17 December 2009). Another way to oversee procurement processes is to check the procurement protocols created by the authorised body. One more possibility for control is oversight (audit) of the execution of state and community budgets, which is regulated by Articles 5, 9 and 17 of the RA Law on the Treasury System and Order # 934-N of the RA Minister of Finance and Economy from 30 December 2002. There is also another mechanism of control over procurement: the requirements set out for public officials involved in the procurement process, particularly, for prevention or restriction of conflict of interest. However, the only provision that is directly connected with the regulation of conflict of interest in procurement is the RA Government Decision #1521-N from 17 December 2009. No direct sanctions have been defined for abuses observed in the procurement process. Yet, the sanctions specified for crimes included in chapters 22 (crimes against economic activity) and 29 (crimes against state service) of the RA Criminal Code can be applied to punish abuses observed during the procurement process. Experts believe that the basic deficiency of legal regulation of oversight over the procurement process and sanctions is the absence of: - Special subdivisions for control over procurement in the RA Chamber of Control, as well as in law enforcement bodies; - A code of ethics for employees of the RA State Procurement Agency, which includes conflict of interest

Objective 2: Civil Service Reform - continued					
Sub-objective	Indicators	Scale of compliance			Notes and sources
		Full	Partial	None	
		2	1	0	
					issues; - Specific sanctions in the criminal code against possible abuses in procurement; - An independent body for oversight of the procurement process; - Requirements to compile protocols in cases of not exceeding the base unit of the procurement contract.
	To what extent does this monitoring system function effectively in practice?		1		According to information provided by the RA Ministry of Finance to TI Anti-Corruption Center, during 2009 the ministry did not conduct any specific inspection aimed at oversight of the implementation of procurement legislation requirements. This means that internal oversight is not performed in an appropriate manner. At the same time, such control is performed by the ministry during the occasional inspections conducted upon the request of the RA law enforcement bodies or following the RA prime minister's assignment. The RA CC, as a body performing external oversight over procurement, rather regularly performs its functions of oversight of the procurement process within the scope of its powers. In particular, the CC has conducted oversight of the 2006-2008 activities of the State Procurement Agency during the period of 23 February -13 April 2009 (see www.coc.am/hashvet/verjnakan_gnumner_hashv_03.07.pdf). Through its observations the CC revealed abuses by public officials involved in the procurement process. The RA National Assembly also regularly performs its function of political control over the CC as stipulated by the requirements of the RA Constitution and the National Assembly Procedures, thus executing indirect control over procurement processes. Unfortunately, the procurement field does not receive due attention from civil society institutions. According to sources in the RA Ministry of Finance, only six NGOs

Objective 2: Civil Service Reform - continued					
Sub-objective	Indicators	Scale of compliance			Notes and sources
		Full	Partial	None	
		2	1	0	
					(including TI Anti-Corruption Center) regularly address procurement-related issues. No information is available concerning the monitoring of those five NGOs. Nevertheless, while monitoring the field over the course of several years, TI Anti-Corruption Center did not face serious constraints from procurement officials.
TOTAL SCORE	9/16 (56.2%)				
TOTAL SCORE (Civil Service Reform)	25/50 (50.0%)				

Objective 3. Implementation of Armenia – GRECO Recommendations					
Objective	GRECO Recommendations	Scale of compliance			Notes and sources
		Full	Partial	Not at all	
		2	1	0	
<u>Rec. IV.</u> Human Resources Management (Judiciary and police officials)	Has the GRECO recommendation on establishing a model for systematic training of police officers, prosecutors and judges on issues of corruption and money laundering been implemented?		1		According to an official source, a team of trainers has been formed in the RA Central Bank and other institutions to ensure systematic training on money laundering. There are two to three people in each team of trainers, who are to periodically organise training sessions in their related fields. By the RA Judicial Department Decision of 29 June 2009, a 24-academic-hour-long training course on corruption and money laundering was approved for persons included in the list of judges and candidates for judgeships. The RA prosecutor general signed a decree on 1 April 2009, which approves the educational programme of periodic training on corruption for prosecutors. Educational standards and teaching methodology were also developed for this course. As for the police, in 2008 high-, mid- and low-ranking officials were given relevant modules for training courses. Last year, the RA Chief of Police issued a decree on 5 March 2009 to introduce a new schedule and increase the number of topics for an additional four training days. In an expert's opinion, some progress has been made on this recommendation. However, there is no evidence that the model is being systematically

Objective 3. Implementation of Armenia – GRECO Recommendations - continued					
Objective	GRECO Recommendations	Scale of compliance			Notes and sources
		Full	Partial	Not at all	
		2	1	0	
					implemented, so this recommendation cannot be seen as fully implemented.
<u>Rec. XXIII.</u> Public Sector Human Resources Management (Tax)	Has the GRECO recommendation on establishing guidelines and providing special training for the tax authorities concerning the detection of corruption offences and their reporting to the competent law enforcement agencies been implemented?		1		Within the USAID MAAC/Casals&Associates project, over 400 employees of the RA State Revenue Committee were trained. In addition to this, on the basis of the related OECD manual, a guide was developed in the form of reporting blanks. However, no guidelines have been yet adopted, so experts see only partial progress in respect to this recommendation.
<u>Rec. XIX.</u> Public Sector Human Resources Management and Whistle blowing	Has the GRECO recommendation on introducing clear rules/guidelines and training for public officials to report instances of corruption, or suspicions thereof, which they come across in their duty and, on establishing adequate protection for public officials who report instances of corruption (whistleblowers) in good faith been implemented?*		1		According to the RA Deputy Chief of Police Arthur Osikyan³³, the draft Law on Public Service includes some of recommended provisions. In particular, the draft law provides that there shall be compulsory reporting of instances of corruption which are encountered during the performance of public servants' duties. The draft also touches upon the legal protection of reporters. Nevertheless, the draft law does not include the recommended guidelines. Moreover, there is no attempt to develop more specific legal mechanisms for whistleblower protection (see Objective 2: Civil Service, p. 28). Therefore, only partial implementation of the given recommendation can be considered at this point.

³³ This state official represents Armenia in GRECO.

Objective 3. Implementation of Armenia – GRECO Recommendations - continued					
Objective	GRECO Recommendations	Scale of compliance			Notes and sources
		Full	Partial	Not at all	
		2	1	0	
<u>Rec. X.</u> Public Sector Accountability (Immunity)	Has the GRECO recommendation on reducing the categories of persons enjoying immunity from prosecution and abolishing, in particular, the immunity provided for parliamentary candidates, members of the central electoral commission, members of regional and local electoral commissions, candidate mayors and local council candidates been implemented?			0	No real progress has been registered in this direction. This is why this recommendation cannot be deemed even partially performed.
<u>Rec. XI.</u> Public Sector Accountability (Immunity)	Has the GRECO recommendation on reconsidering the procedures for lifting immunities of prosecutors and judges by reducing the involvement of predominant individual decision makers (i.e. the president of the republic/prosecutor general) been implemented?		1		According to the Armenian legislation, an individual decision-maker, the RA prosecutor general, is still authorised to bring criminal cases against prosecutors and implement criminal prosecution (see Article 44 of the RA Law on the Prosecutor's Office adopted in 2007). The same official also has the power to appoint and dismiss prosecutors (see Articles 36, 47, 49 and 54 of the RA Law on Prosecution). As for judges, the RA president is still the only person who can lift their immunity, according to the RA Constitution. In fact, the president can, without any comment, decide on the immunity of a judge with no consideration of the recommendation of the RA Justice Council. This makes the judiciary dependent upon the institution of the presidency, given that the president can also remove the name of any judicial candidate from the list approved by the RA Justice Council (see Objective 2: Civil Service, p. 6). Therefore, experts agreed on only partial progress made on implementation of this recommendation.

Objective 3. Implementation of Armenia – GRECO Recommendations - continued					
Objective	GRECO Recommendations	Scale of compliance			Notes and sources
		Full	Partial	Not at all	
		2	1	0	
<u>Rec. XX.</u> Public Sector Accountability	Has the GRECO recommendation to systematically collect and evaluate - at a central level - information on complaints about breaches of ethical rules within the public administration as well as on the outcome of disciplinary proceedings in order to identify shortcomings in concrete areas of the public administration and, based on this evaluation, to take measures to make the necessary changes for improvement been implemented?			0	Though according to the official source, some discussions were held in the CSC on topics under question, still no real steps have been taken to address the problem. Thus, no progress was observed by experts with regard to this recommendation.
<u>Rec. XV.A.</u> Public Sector - Conflict of Interest	Has the GRECO recommendation on issuing guidelines for use by all categories of public officials when confronted with situations where personal/financial interests or activities may raise issues of conflict or partiality with regard to public officials' duties and responsibilities been implemented?		1		In terms of some services (including tax, customs, police, civil service, etc.), as well as institutions (such as the National Assembly, the judiciary, etc.), the respective legislation contains a number of restrictions aimed at prevention of conflicts of interest (see, for example, Objective 1: Strengthening of the Judiciary, pp. 18-19 and Objective 2: Civil Service, pp. 28-29). However, the issue of unified guidelines for all public servants has not been resolved yet. Official sources refer in this regard to the completed draft Law on Public Service as a law designed to address these issues, which can be seen as one step forward compared to 2008, though it still does not comply with the recommended guidelines.
<u>Rec. XVII.</u> Public Sector - Conflict of Interest	Has the GRECO recommendation on lowering the value of any gifts that may be accepted by civil servants, employees or other officials to levels that clearly do not raise concerns regarding bribes or other forms of undue advantage		1		The progress on this recommendation also depends on adoption of the Law on Public Service, as mentioned by respective officials. According to Deputy Chief of Police Arthur Osikyan, the draft law lists the cases in view of which restrictions on receipt of "gifts" by the public servant are not applicable. It also states that if the value of

Objective 3. Implementation of Armenia – GRECO Recommendations - continued					
Objective	GRECO Recommendations	Scale of compliance			Notes and sources
		Full	Partial	Not at all	
		2	1	0	
	and that a reporting obligation in respect of gifts of any value be introduced been implemented?				permitted gifts received during one year from the same person exceeds 250,000 AMD (US \$625) or if the value of all gifts exceeds one million AMD (US \$2,500), the public servant shall report it to his/her superior. Taking into consideration that the new law has not been passed yet, experts assessed the progress on this recommendation as partial.
<u>Rec. XV.B</u> Public Sector Integrity (Rotation of Staff)	Has the GRECO recommendation on making wider use of rotation in sectors of public administration particularly exposed to a risk of corruption been implemented?		1		The principle of rotation of public officials had been initially applied in the tax service. It was then introduced to the police system (see the relevant procedure approved at the session of the RA Government on 5 November 2009). According to Deputy Chief of Police Arthur Osikyan, the rotation will be used more widely (as was recommended) if this pilot application proves to be effective. Despite some progress made in this direction, experts see this recommendation to be only partially implemented, though there has been definite improvement since 2008.
<u>Rec. XVI.</u> Public Sector - Declaration of Assets	Has the GRECO recommendation on introducing an effective system for verifying declarations of property and income in respect of all public officials whose service duties could be affected by conflicts of interest been implemented?*		1		In spite of some discussions around this issue, no real steps have been taken to introduce the system of verification of declarations. The current practice of verification of financial declarations by public officials still lacks effectiveness. Accordingly, the same is true for the application of sanctions for submission of wrong information (for more detail see Objective 2: Civil Service, pp. 23-24).
<u>Rec. XXIII.</u> Public Sector - Code of Ethics	Has the GRECO recommendation on giving high priority to the planned preparation of a code of ethics for public administration and		1		There are codes of ethics for several services and institutions, while the recommended unified code for all public servants is not yet in place. According to official sources, the draft Law on Public

Objective 3. Implementation of Armenia – GRECO Recommendations - continued					
Objective	GRECO Recommendations	Scale of compliance			Notes and sources
		Full	Partial	Not at all	
		2	1	0	
	ensuring that all public officials receive appropriate training and that the code is accessible to the public been implemented?*				Service has a separate section on ethics and conflict of interest. It is also envisaged to establish a separate body with a consultative power to review ethics- and conflict-of-interest-related cases connected to high-level public officials. Based on the aforementioned information, this recommendation is still considered as only partially implemented.
<u>Rec. XXI.</u> Private Sector Integrity (Background checks)	Has the GRECO recommendation on ensuring that both natural and legal persons establishing companies are checked and monitored with respect to possible criminal records or professional disqualifications been implemented?		1		The law on state registration of legal entities is now being reprocessed in the RA Ministry of Justice, which will in certain cases allow for checks on the past activity of directors and other officials who are in the process of registering a new organisation. This can be done on the basis of claiming a reference or trust towards the particular citizen, considering that it is enough to have only a statement by the citizen that he/she is not deprived of the right to be involved in a certain activity. If a further verification reveals false information, then an administrative or other responsibility will follow for presenting a false document. However, until these legal changes have been enforced no real progress can be registered in this direction.
<u>Rec. XXII.</u> Anti-Bribery Legislation (Individual Liability)	Has the GRECO recommendation on establishing liability of legal persons for offences of bribery and money laundering and on provision of sanctions that are effective, proportionate and dissuasive, in accordance with the Criminal Law Convention on Corruption, been implemented?			0	According to Deputy Chief of Police Arthur Osikyan, this issue has become a subject of scientific dispute around the issue of whether the Criminal Law Convention on Corruption entails criminal responsibility for corruption offences for legal entities or only administrative responsibility would be enough. The RA Ministry of Justice is now developing for incorporation into the RA Code on Administrative Violations a chapter on legal entities being subject to criminal responsibility, which is perceived as a new approach in Armenia's legal system.

Objective 3. Implementation of Armenia – GRECO Recommendations - continued					
Objective	GRECO Recommendations	Scale of compliance			Notes and sources
		Full	Partial	Not at all	
		2	1	0	
					Nevertheless, since the noted relevant legal changes under consideration are not available to the public even as a draft, it is hard to see this recommendation as even partially implemented.
TOTAL SCORE (Implementation of International Conventions)	10/26 (38.4%)				

Transparency International
Anti-corruption Center
6, Aygestan 9th Street
Yerevan 0025, Armenia

Phone: +374 - 10 - 569 910
Fax: +374 - 10 - 569 910

info@transparency.am
www.transparency.am