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Executive summary

Note by the Secretariat

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* CAC/COSP/IRG/2021/1.



II. Executive summary

Armenia

1. Introduction: overview of the legal and institutional framework of Armenia in the context of the implementation of the United Nations Convention against Corruption

The implementation by Armenia of chapters III and IV of the Convention was reviewed in the third year of the first review cycle, and the executive summary of that review was published on 6 March 2015 (CAC/COSP/IRG/I/3/1/Add.19). The full country review report is posted on the website of the United Nations Office on Drugs and Crime.¹

The legal system in Armenia follows the civil law tradition. While the Constitution has supreme legal force, in cases of conflict between the norms of international treaties ratified by Armenia and those of laws, the former are to apply (art. 5 of the Constitution).

The legislation and administrative measures to implement chapters II and V of the Convention include the Law on Public Service, the Law on Civil Service, the Law on Combating Money-Laundering and Terrorism Financing, the Criminal Code, the Criminal Procedure Code, and decisions of the Central Bank of Armenia.

The main anti-corruption institutions are the Ministry of Justice, the Financial Monitoring Center, the Prosecutor-General's Office, the Anti-Corruption Council (a discussion platform for relevant institutions),² the Commission on Ethics of High-Ranking Officials,³ the Division for Anti-corruption Policy Development of the Ministry of Justice (DACPD) and the Anti-corruption Programmes and Monitoring Department of the Office of the First Deputy Prime Minister (ACPMMD).⁴

2. Chapter II: preventive measures

2.1. Observations on the implementation of the articles under review

Preventive anti-corruption policies and practices; preventive anti-corruption body or bodies (arts. 5 and 6)

Armenia adopted its national Anti-Corruption Strategy and institutional framework for 2015–2018, which was developed by DACPD. The Strategy is based on a concept on the fight against corruption in the public administration system that was developed in cooperation with civil society and approved in 2014. On the basis of the Strategy, risk assessments have been conducted and four sectoral action plans were adopted in 2018. At the time of the country visit, a new Strategy for 2019–2022 was being developed, and the draft was available on the unified website for publishing draft legal acts (www.e-draft.am).⁵

As required by the action plans, all State bodies have anti-corruption focal points, and the Government provides annual training for them on corruption-related topics such as conflicts of interest.

¹ www.unodc.org/unodc/treaties/CAC/country-profile/CountryProfile.html?code=ARM

² Development after the country visit: the Armenian authorities indicated that the Anti-Corruption Council had been renamed the "Anti-Corruption Policy Council."

³ Development after the country visit: the Armenian authorities indicated that the Commission on Ethics of High-Ranking Officials had been renamed the "Corruption Prevention Commission."

⁴ Development after the country visit: the Armenian authorities indicated that the mandate of DACPD had been expanded to also include monitoring, which previously had been within the mandate of ACPMD, and that the two subdivisions had been merged into one, renamed the "Anti-corruption Policy Development and Monitoring Department."

⁵ Development after the country visit: the Armenian authorities indicated that the Anti-Corruption Strategy and its action plan for 2019–2022 had been adopted on 3 October 2019.

Regarding the periodic monitoring and evaluation of legal instruments and administrative measures against corruption, including the Anti-Corruption Strategy and the action plan, DACPD periodically checks compliance of national legislation and practice on anti-corruption with international standards such as the Convention, and ACPMD issues an annual monitoring and evaluation report on the Anti-Corruption Strategy and the action plan.⁶ The monitoring and evaluation reports are descriptive and do not contain information on the achievement of the intended results or outcomes. There is no established methodology for such evaluations.⁷

Armenia collaborates with various international and regional organizations, including the Group of States against Corruption of the Council of Europe, the Istanbul Anti-Corruption Action Plan of the Organization for Economic Cooperation and Development, and the Open Government Partnership.

The body responsible for anti-corruption policy is the Ministry of Justice, which exercises this function through DACPD.

The Anti-Corruption Council is a discussion platform for relevant stakeholders and is composed of, inter alia, the Prime Minister, ministers, heads of independent bodies, opposition party representatives and members of civil society. It endorses the Strategy and sector-specific programmes and provides recommendations.

DACPD develops all policy documents and legal acts related to anti-corruption, including the Anti-Corruption Strategy, acts as focal point for the implementation of measures deriving from international obligations and follows up on anti-corruption measures taken by the Government. ACPMD is the secretariat of the Anti-Corruption Council and monitors and evaluates anti-corruption projects undertaken by government institutions. As part of the executive, DACPD and ACPMD are not independent.⁸

The Commission on Ethics of High-Ranking Officials was established as an administratively independent body to ensure transparency and accountability of high-ranking officials; the Law on Public Service provides that members of the Commission are independent and not accountable to any State or local self-government body or public official (arts. 40 and 41.1 of the Law on Public Service). A new Corruption Prevention Commission,⁹ which was being established at the time of the country visit, was to take over the functions of the Commission on Ethics of High-Ranking Officials.¹⁰

Armenia has informed the Secretary-General of the United Nations that the Ministry of Justice is the authority that may assist other States parties in developing and implementing preventive anti-corruption measures.

⁶ Development after the country visit: the Armenian authorities indicated that, starting from 1 January 2020, the annual monitoring and evaluation report was being issued by DACPD rather than by ACPMD.

⁷ Development after the country visit: the Armenian authorities indicated that the newly adopted anti-corruption strategy provided for a monitoring mechanism.

⁸ Development after the country visit: the Armenian authorities indicated that the two subdivisions had been merged into one, renamed the “Anti-corruption Policy Development and Monitoring Department”.

⁹ At the time of the country visit, the Law on the Corruption Prevention Commission foresaw that the Corruption Prevention Commission should be comprised of five members appointed by the National Assembly for a term of three, four or six years (depending on the nominees) (art. 9 of the Law on the Corruption Prevention Commission), be an autonomous State body (art. 2) and should act on the basis of the principles of collegiality, financial independence, public accountability and transparency, cooperation and political neutrality (art. 3).

¹⁰ Development after the country visit: the Armenian authorities indicated that, since the country visit, the Corruption Prevention Commission had become operational and that the Parliament had elected the members of the Commission designated by their respective authorities in November 2019.

Public sector; codes of conduct for public officials; measures relating to the judiciary and prosecution services (arts. 7, 8 and 11)

The Law on Civil Service regulates the recruitment, hiring, retention, promotion and retirement of civil servants, a subcategory of public servants in Armenia (art. 4, para. 1 (1), of the Law on Civil Service). Vacancies are to be filled through competition (art. 10). The body holding the competition is to publish the call on its website, the websites of the Bureau of the Civil Service and the official public notifications website of Armenia (art. 10, para. 3). Promotion of a civil servant is to be through competition (art. 10, para. 19). Grounds for dismissal are provided for in the Law (art. 37).

Armenia has not identified positions considered especially vulnerable to corruption or established procedures for the selection, training and rotation, where appropriate, of persons in such positions.¹¹

Civil servants have the right to adequate remuneration, as determined pursuant to article 26 of the Law on Civil Service. The Law on Remuneration for Persons Holding State Positions determines their base salary.

Civil servants are expected to participate in training (art. 19 of the Law on Civil Service). The Civil Service Council and the Public Administration Academy provide training for civil servants on ethics, conflicts of interest and anti-corruption. However, not all public officials receive such training.

Anyone who has attained the age of 25, has held citizenship of only Armenia for the preceding four years, has permanently resided in Armenia for the preceding four years, has the right of suffrage and speaks Armenian may be elected as a Deputy of the National Assembly (art. 48, para. 2, of the Constitution). Similar requirements (although with longer terms and a higher age limit) apply in order to qualify for election as President (art. 124 of the Constitution).

Political parties can receive donations up to a specified amount from natural or legal persons, except for donations deriving from, inter alia, charitable or religious organizations; State or community budgets; foreign States, nationals or legal persons; international organizations; or anonymous persons (art. 24 of the Constitutional Law on Political Parties). The Constitutional Law on the Electoral Code governs campaign funds of candidates and political parties (arts. 26–28). The Audit and Oversight Service oversees contributions made to campaign funds, expenditures and their calculation, as well as the daily financial activities of political parties, and is authorized to directly receive bank and other information. It is to act independently and publishes reports on the website of the Central Electoral Commission (art. 29), which can impose sanctions on candidates and parties for non-compliance with funding rules (art. 24 of the Constitutional Law on Political Parties).

The Law on Public Service defines conflicts of interest (art. 33). Persons holding public positions and public servants are prohibited from, inter alia, holding a position not related to their status within other State or local self-government bodies, or any position within commercial organizations; engaging in entrepreneurial activities; or performing any other paid work, except for scientific, educational and creative work (art. 31). Non-compliance is to entail disciplinary action (arts. 31, para. 17; 32, para. 3; and 33, para. 9). However, Armenia lacks a scheme to implement such restrictions and sanctions. Disciplinary actions do not apply to persons holding political positions (see arts. 32 and 33).

¹¹ Development after the country visit: the Armenian authorities indicated that, as of March 2020, the Corruption Prevention Commission (formerly the Commission on Ethics of High-Ranking Officials) verified the integrity of candidates for several potentially vulnerable positions, such as judges, Constitutional Court judges, members of the Supreme Judicial Council and prosecutors, and provided opinions on their integrity. The Armenian authorities further indicated that, while these opinions were of an advisory nature, they could result in candidates not being selected.

The integrity system (arts. 21 et seq. of the Law on Public Service) includes the principles of conduct for persons holding public positions and public servants (arts. 22–27) and the rules of conduct deriving from such principles (art. 28).

The Law on Public Service contains the main principles of public service and allocates the authority to establish specific rules of conduct to respective institutions. Armenia does not have codes of conduct for all public officials, and it is unclear whether relevant initiatives of regional or multilateral organizations have been taken into account in the development of existing codes. Persons holding political positions are exempt from disciplinary actions for violations of codes of conduct (art. 28, para. 9).

Each State and local self-government body has integrity affairs organizers (art. 46 of the Law on Public Service). A variety of training is provided to public officials, but training on the codes of conduct has not been provided.

The Law on the Whistle-blowing System envisages internal and external whistle-blowing in the public sector, and anonymous reporting through a unified electronic platform (arts. 6–8).

The Law on Public Service requires specified declarants to declare property and income to the Corruption Prevention Commission (arts. 34, 40 and 41). Declarants and family members can request amendments to submitted declarations, which, if the request is granted, must be made within seven working days (art. 37 of the Law on Public Service). Declarations are to be made to the Commission on Ethics of High-Ranking Officials while the Corruption Prevention Commission is being established.¹² Declarations of interests (art. 42 of the Law on Public Service) are foreseen but have not yet been implemented.¹³

The Constitution establishes judicial independence and tenure until the age of 65 (arts. 164 and 166). The Constitutional Law on the Judicial Code regulates the selection of judges and establishes binding rules of conduct for all judges. A judge is to recuse himself or herself if he or she knows of circumstances that may cast reasonable doubt on his or her impartiality, and is required to prevent conflicts of interest (arts. 63 and 70).

Prosecutors are subject to instructions as part of the principle of hierarchic subordination (arts. 31, para. 1, and 32 of the Law on the Prosecutor's Office). The rules of conduct for prosecutors are defined by the same Law (arts. 72–74) and the Prosecutor General's Order No. 27 of 10 April 2018. Disciplinary sanctions can be imposed for violations of these rules (arts. 53–58 of the Law on the Prosecutor's Office, and Prosecutor General's Order No. 49 of 5 June 2018). Judges and prosecutors, as well as candidates, undergo mandatory training at the Academy of Justice, including on the judicial code, the independence and transparency of the judiciary, and modern issues in combating corruption in the public service.

Public procurement and management of public finances (art. 9)

The Law on Procurement provides for four forms of public procurement: (a) tender; (b) e-auction; (c) pricing request; and (d) single-source procurement (art. 18). Procurement notices and invitations are to be published in the bulletin (art. 27 of the Law on Procurement).

If the procurement subject is included in the list of goods, works and services purchased by means of e-auction, the procurement is carried out by such means (art. 18, para. 3, of the Law on Procurement). If the price of the procurement subject exceeds 70 million Armenian drams (approximately \$147,200) and the subject is not included in the list of purchases by e-auction, then an open tender is carried out (art. 18, para. 5). If the price does not exceed 70 million drams and is not included in

¹² Development after the country visit: the Armenian authorities indicated that, since the country visit, declarations were being submitted to the Corruption Prevention Commission.

¹³ Development after the country visit: the Armenian authorities indicated that, from 2020, the declaration of interest system was being implemented.

the e-auctions list, the procurement can be carried out by means of a pricing request (art. 22). If the price does not exceed 1 million drams (approximately \$2,100), the procurement can be carried out by means of single-source procurement (art. 23, read in conjunction with art. 2). Closed tenders are to be used for procurement processes that concern State secrets (art. 21).

The bidder is to be selected on the basis of (a) the lowest priced bid, or (b) the bid with the highest total sum of coefficients given to the price proposal and the pre-established and published non-price criteria (art. 34, para. 2).

Every person can: (a) participate in the procurement process (art. 7, para. 1), except on the specified grounds for ineligibility (art. 6) or in cases where the Government decides to restrict participation for reasons of national security (art. 7, para. 2); (b) appeal against the actions and decisions of the contracting authority and the evaluation commission to the Procurement Appeals Board before conclusion of the contract; and (c) appeal against the actions and decisions of the Board, the contracting authority and the evaluation commission to a court (art. 46). The appeal automatically suspends the procurement process (art. 51) and the Board can prohibit implementation of certain actions and annul or amend the procurement decision (art. 50, para. 7).

Procurement coordinators at each institution are responsible for organizing the procurement process and must successfully complete regular training courses. No declarations of interest in particular public procurements or screening requirements for procurement personnel are required.

The State budget is adopted by the National Assembly (arts. 110 and 111 of the Constitution). Budget execution is reported monthly, quarterly and annually on the website of the Ministry of Finance.

Public sector accounting is regulated by the Law on the Accounting of Public Sector Organizations, following the Public Sector Accounting Standard.

Under the Public Sector Internal Audit System, all public administrations and local self-government bodies, except for rural communities, have internal audit units. Internal auditors submit reports on the revealed discrepancies and relevant suggestions. The Audit Chamber is an independent State body conducting audits in the field of public finance and ownership (art. 198 of the Constitution). Management and oversight of the financial system is decentralized; no management and internal control system has been established.

Unnotified corrections to the public accounting documents are prohibited (arts. 314 and 325 of the Criminal Code). Accounting documents and information are to be kept for not less than five years, and non-compliance can be sanctioned (art. 169.11 of the Code of Administrative Offences).

Public reporting; participation of society (arts. 10 and 13)

Everyone has the right to receive information on activities of government bodies and officials (art. 51 of the Constitution) and to address an inquiry to an information-holder (art. 3 of the Law on Freedom of Information), including through a unified electronic platform (art. 6). Certain information is subject to proactive publication (art. 7). Limitations on freedom of information include those relating to information containing State or official secrets or infringing on the privacy of a person (art. 8). The decision not to provide information can be appealed (art. 11, para. 4). Sanctions are available for non-compliance (art. 189.7 of the Code of Administrative Offences and art. 148 of the Criminal Code).

Armenia reported that State bodies assess corruption risks in State institutions and publish relevant reports on their websites. It is not clear whether such reports are published periodically.

Certain civil society organizations form part of the Anti-Corruption Council. All legislative drafts, except for ratifications of international treaties, are posted on the e-draft platform, which allows for comments by civil society (arts. 3 and 4 of the Law

on Regulatory Legal Acts). The authorities also reported that civil society widely participated in risk assessments and strategy developments.

Anti-corruption topics are taught in schools, including at a number of universities.

The authorities disseminate information on their activities through their websites. Armenia also conducts awareness-raising campaigns on anti-corruption matters, including through the online platform for whistle-blowers.

Private sector (art. 12)

Armenia has defined guiding principles that corporations are advised to follow to safeguard their integrity.

International financial reporting standards (art. 3 of the Law on Accounting) and auditing standards (art. 3 of the Law on Audit Activity) have been implemented. Failure to comply with auditing requirements is to entail monetary sanctions (art. 169.9 of the Code of Administrative Offences), but no compliance oversight is conducted. All companies are subject to accounting requirements, while internal auditing standards are not applicable to small companies.¹⁴ Armenia does not have certification procedures for accounts and required financial statements of private entities.

There are no specific activities to promote cooperation between law enforcement agencies and private entities.

Armenia does not have measures in place to promote transparency of the identity of legal and natural persons involved in the establishment and management of corporate entities or measures to prevent the misuse of procedures regulating private entities.

Former public officials are prohibited for one year from being employed by a private institution that was under their direct control during the last year of holding office (art. 32, para. 1 (7), of the Law on Public Service). However, the restriction is limited in scope and no implementation mechanism exists.

The retention period for accounting documents is not less than five years (art. 19, para. 1, of the Law on Accounting). Intentional destruction of documents is criminalized (art. 324 of the Criminal Code), but the legislation does not prohibit other acts enumerated under article 12, para. 3, of the Convention.

There is no provision disallowing the tax deductibility of expenses that constitute bribes and other expenses incurred in furtherance of corrupt conduct.

Measures to prevent money-laundering (art. 14)

Reporting entities (art. 3, para. 1 (4), of the Law on Combating Money-Laundering and Terrorism Financing) include financial institutions, accountants, realtors, notaries, attorneys, dealers in precious metals and stones, casinos and other designated non-financial businesses and professions.

The Law on Combating Money-Laundering and Terrorism Financing requires reporting entities to, inter alia: (a) know their customers, including economic beneficiaries, applying risk-based due diligence (arts. 3, para. 1 (19–21), and 16); (b) report any suspicious transactions, as well as transactions above certain thresholds, to the Financial Monitoring Center (arts. 6 and 8); and (c) maintain information on customers (which includes beneficial owner information) and transactions (art. 22).

Financial institutions are required to report non-cash transactions above 20 million Armenian drams (approximately \$42,000) and cash-related transactions above 5 million drams (approximately \$10,500). The State Registry, the authorized body in charge of maintaining the integrated State cadastre of real estate, as well as the

¹⁴ Development after the country visit: the Armenian authorities indicated that the Government was working on the development of corporate codes of ethics.

designated non-financial businesses and professions sector, including notaries, organizers of casinos, games of chance and lotteries, and others as specified under the Law on Combating Money-Laundering and Terrorism Financing, are, in certain circumstances, required to report transactions above 20 million drams, except for the buying and selling of real estate, for which the reporting threshold is above 50 million drams (approximately \$105,100) (but above 5 million drams (approximately \$10,500) for cash transactions) (art. 6 of the Law on Combating Money-Laundering and Terrorism Financing). Dealers in precious metals and stones are only required to report cash transactions above 5 million drams (approximately \$10,500).

The Central Bank of Armenia, through the Financial Monitoring Center, supervises financial institutions, credit bureaus and other reporting entities that do not have a legally defined supervisory authority or a legislative regulatory framework (art. 29, para. 1, of the Law on Combating Money-Laundering and Terrorism Financing). Supervision of designated non-financial businesses and professions is exercised by the Ministry of Justice for notaries (art. 19 of the Law on the Notarial System), the Chamber of Advocates for lawyers (art. 7 of the Law on the Profession of Advocate), the State Revenue Committee¹⁵ for casinos, organizers of games of chance and auditors (arts. 2, para. 10, and 9 of the Law on games of chance, gambling, Internet gambling and casinos, and art. 21 of the Law on Audit Activity); and the Central Bank of Armenia for accountants, realtors, dealers in precious metals and stones, organizers of auctions and art dealers (art. 29, para. 1, of the Law on Combating Money-Laundering and Terrorism Financing). The Central Bank of Armenia cooperates with counterparts at the national and international levels (arts. 13 and 14 of the Law on Combating Money-Laundering and Terrorism Financing).

The cross-border movement by individuals of any bearer securities, except for traveller's cheques, and of cash, treasury bills (see art. 154 of the Civil Code) and traveller's cheques above the equivalent of 5 million drams (approximately \$10,500) for export from Armenia, and the equivalent of 15,000 euros (approximately \$17,900) for import into Armenia requires a written declaration (Central Bank of Armenia Decision No. 386-N of 29 July 2005, amended by Decision No. 106-N of 29 April 2014). Sanctions for non-compliance are established (art. 215 of the Criminal Code and arts. 194 and 203 of the Customs Code). The cross-border movement of cash and bearer negotiable instruments by banks and credit organizations is not subject to restrictions, but the customs service is to be notified about the transportation of currency values at least three hours prior to the start of the border crossing (clauses 3.1 and 3.3 of Central Bank of Armenia Decision No. 386-N as amended).

Armenia requires financial institutions, including money remitters, to obtain and maintain the names of the originator and the beneficiary of the transfer, their account numbers (or in the absence thereof, the unique reference number accompanying the transfer), as well as details of the identification document of the originator or, in the case of legal persons, their State registration or individual record number, and include such information in the accompanying payment order (arts. 3, paras. 4 and 5, and 20, paras. 1 and 2, of the Law on Combating Money-Laundering and Terrorism Financing). For all wire transfers, intermediary and beneficiary financial institutions are required to adopt effective risk-based policies and procedures for taking measures (including refusal or suspension) concerning wire transfers that lack such information (art. 20, para. 5, of the Law on Combating Money-Laundering and Terrorism Financing). For cross-border wire transfers, ordering financial institutions should refuse any cross-border wire transfer below the 400-fold amount of the minimum salary (approximately \$800) that lacks the names of the originator and the beneficiary of the transfer and their account numbers (or in the absence of such numbers, the unique reference number accompanying the transfer). They are also to refuse any cross-border wire transfer equal to or above this threshold that lacks the names of the originator and the beneficiary of the transfer, their account numbers (or, in their

¹⁵ The Armenian authorities indicated that, until 9 April 2018, the Ministry of Finance had been the corresponding supervisory body.

absence, the unique reference number accompanying the transfer), or details of the identification document of the originator, or, in the case of legal persons, their State registration or individual record number, as per article 27, paragraph 3, of the Law on Combating Money-Laundering and Terrorism Financing.

Armenia has undergone assessments in its capacity as a member of the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL). It also belongs to the Eurasian Economic Union.

2.2. Successes and good practices

- The efforts of Armenia in establishing a system of interest declarations aimed at preventing and resolving conflicts of interest are commended (art. 8, para. 5).
- All State bodies are required to publish draft laws using the e-draft platform to ensure transparency and the participation of society (art. 13, para. 1).

2.3. Challenges in implementation

It is recommended that Armenia:

- Adopt the new Anti-Corruption Strategy for 2019–2022, ensuring that it is comprehensive and coordinated and promotes the participation of society (art. 5, para. 1).¹⁶
- Endeavour to enhance the periodic monitoring and evaluation of anti-corruption legal instruments and administrative measures, including the Anti-Corruption Strategy and the action plan, including through the establishment of an appropriate monitoring and evaluation methodology and system, in order to assess progress in implementation and the achievement of goals (art. 5, para. 3).
- Grant the preventive bodies the necessary independence (art. 6, para. 2).¹⁷
- Endeavour to adopt and strengthen systems for the recruitment, hiring, retention, promotion and retirement of non-elected public officials that are not civil servants (art. 7, para. 1).
- Endeavour to identify public positions considered especially vulnerable to corruption, and to adopt adequate procedures for the selection, training and rotation, where appropriate, of holders of such positions (art. 7, para. 1 (b)).
- Endeavour to promote education and training programmes for the correct, honourable and proper performance of public functions, including on the risks of corruption, to a wider scope of persons (art. 7, para. 1 (d)).
- Endeavour to adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest and that include effective sanctions applicable to public officials, including persons holding political positions (art. 7, para. 4).¹⁸
- Endeavour to enhance the existing restrictions on the professional activities of former public officials and on the employment of public officials by the private sector after their resignation or retirement, including by extending the prohibition on former public officials being employed by a person, or becoming an employee of an organization, over which they formerly exercised indirect

¹⁶ Development after the country visit: the Armenian authorities indicated that the new Anti-Corruption Strategy had been adopted subsequent to the country visit.

¹⁷ Development after the country visit: the Armenian authorities indicated that, since the country visit, the Corruption Prevention Commission had become operational and that, in accordance with the Law on the Corruption Prevention Commission, it was to be an autonomous State body with financial independence.

¹⁸ Development after the country visit: the Armenian authorities indicated that, from January 2020, the declarants were also obliged to submit declarations of interest.

control, and establishing an effective implementation and verification mechanism (arts. 7, para. 4, and 12, para. 2).

- Promote integrity, honesty and responsibility among public officials by applying codes or standards of conduct developed in accordance with relevant initiatives of regional, interregional and multilateral organizations, and by conducting training (art. 8, paras. 1–3).
- Endeavour to establish measures and systems requiring public officials, including persons holding political positions, to declare outside activities and employment, and gifts or benefits received (including work and services) (art. 8, para. 5).
- Consider taking disciplinary or other measures against public officials, including persons holding political positions, who violate the codes or standards of conduct (art. 8, para. 6).
- Endeavour to take measures to regulate matters regarding procurement personnel, such as requiring a declaration of interest in particular public procurements (art. 9, para. 1).
- Take appropriate measures in the management of public finances, such as effective and efficient systems of risk management and internal control, which could include unified legislation and systems (art. 9, para. 2).
- Take measures to enhance transparency in the public administration, which may include publishing periodic reports on the risks of corruption or providing an online record of submitted applications, requests and complaints, allowing for the generation of statistics to further improve the provision of information to the public (art. 10 (c)).

Armenia is encouraged to provide confidential ethics counselling to judges and prosecutors (art. 11).

It is recommended that Armenia:

- Take measures to prevent corruption involving the private sector, enhance private sector accounting and auditing standards, in particular through compliance oversight for accounting and establishing certification and by enhancing the transparency of legal persons and cooperation with law enforcement and preventing the misuse of procedures and licences, and, where appropriate, provide effective sanctions for non-compliance (art. 12, paras. 1 and 2).
- Take measures to prohibit acts specified in article 12, paragraph 3, of the Convention (art. 12, para. 3).
- Disallow the tax deductibility of expenses that constitute bribes, and where appropriate, other expenses incurred in furtherance of corrupt conduct (art. 12, para. 4).

2.4. Technical assistance needs identified to improve implementation of the Convention

- Development of an effective monitoring system (art. 5, para. 3)
- Drafting of training curricula and providing training for public officials on the correct, honourable and proper performance of public functions, including training to enhance their awareness of corruption risks (art. 7, para. 1 (d)).

3. Chapter V: asset recovery

3.1. Observations on the implementation of the articles under review

General provision; special cooperation; bilateral and multilateral agreements and arrangements (arts. 51, 56 and 59)

Armenia does not have a specific asset recovery law. All cooperation is based on direct application of the Convention, bilateral mutual legal assistance treaties and chapters 54 and 54.1 of the Criminal Procedure Code, on mutual legal assistance.

In practice, Armenia may exchange information on proceeds of corruption offences spontaneously and uses the secure network of the Egmont Group of Financial Intelligence Units to this end (see also arts. 3, para. 1 (7), 10 and 14, para. 2, of the Law on Combating Money-Laundering and Terrorism Financing).

Armenia has not signed specific bilateral or multilateral agreements to enhance the effectiveness of international cooperation pursuant to chapter V of the Convention. Some bilateral mutual legal assistance treaties to which Armenia is a party contain provisions relevant to asset recovery.

Prevention and detection of transfers of proceeds of crime; financial intelligence unit (arts. 52 and 58)

Reporting entities (art. 3, para. 1 (4), of the Law on Combating Money-Laundering and Terrorism Financing) are required to identify customers and verify their identity (art. 16, paras. 1 and 4, of the Law on Combating Money-Laundering and Terrorism Financing), determine whether the customer is acting on behalf of and/or for the benefit of another person and establish any beneficial owners (defined in art. 3, para. 1 (15), of the Law on Combating Money-Laundering and Terrorism Financing), and, as applicable, identify the beneficial owner and verify his or her identity (art. 16, paras. 5, 6 and 8, of the Law on Combating Money-Laundering and Terrorism Financing), irrespective of the value of the account.

The definition of politically exposed persons (art. 3, para. 1 (25), of the Law on Combating Money-Laundering and Terrorism Financing) encompasses officials entrusted with prominent functions in a foreign country or territory only. Politically exposed persons, their family members and persons otherwise associated with them are designated as high-risk (art. 3, para. 1 (21), of the Law on Combating Money-Laundering and Terrorism Financing), and thus are subject to enhanced due diligence (art. 18, para. 2, of the Law on Combating Money-Laundering and Terrorism Financing). The Law on Combating Money-Laundering and Terrorism Financing does not specify that close associates of politically exposed persons that are not family members, or close associates that are legal persons, are subject to enhanced due diligence; however, the Armenian authorities indicated that the interpretation of the term “persons otherwise associated with them” by the financial intelligence unit and supervisors was broader and not limited to family members.

The Central Bank of Armenia can give instructions to ensure the implementation by reporting entities of relevant obligations, including enhanced due diligence measures (art. 10, para. 1 (6), of the Law on Combating Money-Laundering and Terrorism Financing). The Financial Monitoring Center exercises these powers (art. 10, para. 2, of the Law on Combating Money-Laundering and Terrorism Financing), which allow for notifying financial institutions, including upon request by a foreign State, of the types or identity of natural or legal persons whose accounts should be subject to enhanced scrutiny.

Reporting entities must maintain customer identification data and all necessary records of transactions or business relationships for at least five years following the termination of the business relationship or completion of the transaction, or for a longer period if required by the law (art. 22, paras. 1 and 2, of the Law on Combating Money-Laundering and Terrorism Financing).

The establishment and operation of shell banks (art. 3, para. 1 (39), of the Law on Combating Money-Laundering and Terrorism Financing) is forbidden (art. 15, para. 2, of the Law on Combating Money-Laundering and Terrorism Financing). Financial institutions are prohibited from entering into or continuing correspondent or similar relations with shell banks and must ascertain that, in connection with payable-through accounts, the respondent institution does not allow the use of its accounts by shell banks (art. 19, paras. 1 (5) (b) and 2, of the Law on Combating Money-Laundering and Terrorism Financing).

Specified public officials and their family members (art. 34 of the Law on Public Service) are required to electronically submit declarations of property and income to the Corruption Prevention Commission upon assumption and termination of official duties by the public official and annually (arts. 34, para. 4, and 38 of the Law on Public Service; see above, in relation to art. 7 of the Convention; for declarations of interest, see above, in relation to art. 8 of the Convention). Failure to declare and false declarations are to entail liability (art. 34, para. 11, of the Law on Public Service; arts. 314.2 and 314.3 of the Criminal Code; and art. 169.28 of the Code of Administrative Offences). The Commission on Ethics of High-Ranking Officials is mandated to verify declarations (art. 43.1 of the Law on Public Service of 2011 as amended).¹⁹ Declarations are published on a dedicated website (art. 43 of the Law on Public Service) and can be shared with foreign States. While the declaration should encompass all assets of a declarant, whether located in Armenia or abroad, there is no obligation to report signature or other powers over financial accounts abroad.

The Financial Monitoring Center is the financial intelligence unit (art. 10, para. 2, of the Law on Combating Money-Laundering and Terrorism Financing, and art. 1 of the Financial Monitoring Center Statute). The Center is a member of the Egmont Group and cooperates at the national and international levels (arts. 13 and 14 of the Law on Combating Money-Laundering and Terrorism Financing). In addition to the suspension power that financial institutions have over transactions (art. 26, para. 1, of the Law on Combating Money-Laundering and Terrorism Financing), the Central Bank of Armenia can suspend transactions or business relationships for up to 5 days (extendable to a maximum of 15 days) (art. 26, para. 2, of the Law on Combating Money-Laundering and Terrorism Financing). While it can also cooperate both domestically and internationally in the absence of an agreement or memorandum of understanding, at the time of the country visit, the Financial Monitoring Center had signed 9 inter-institutional memorandums of understanding and 34 memorandums of understanding with international counterparts.

Measures for direct recovery of property; mechanisms for recovery of property through international cooperation in confiscation; international cooperation for purposes of confiscation (arts. 53, 54 and 55)

Other States can bring civil action in Armenia to determine title to or ownership of property acquired through the commission of an offence (art. 432, part 2, of the Civil Procedure Code).

Armenian courts can order anyone who has committed an offence to compensate or pay damages to another State party harmed by such offence and may recognize its legitimate property rights when making decisions on confiscation (art. 59, paras. 1 (15 and 16) and 5, of the Criminal Procedure Code).

The authorities can recognize and give effect to a foreign confiscation order as a foreign judgment (art. 499.8 of the Criminal Procedure Code).

¹⁹ Development after the country visit: the Armenian authorities indicated that, on the basis of the recently adopted Law on the Corruption Prevention Commission, the Corruption Prevention Commission was in charge of inspecting the submission, reliability and integrity of declarations, as well as of analysing them on the basis of risk indicators (art. 25 of the Law on the Corruption Prevention Commission).

The authorities may order the confiscation of property of foreign origin in a sentence relating to a money-laundering offence or any other crime under the general rules applicable to confiscation (art. 103 of the Criminal Code).

The current legislation does not provide for non-conviction-based confiscation. Armenia cannot confiscate assets on the basis of a foreign non-conviction-based forfeiture order. At the time of the country visit, a bill on the subject was being drafted.²⁰

Requests for freezing or seizure in accordance with the Convention, with or without a foreign order, are to be submitted to the Prosecutor-General's Office (in the pretrial stage) or the Ministry of Justice (in court proceedings), which will then submit the request for execution to the competent body (art. 475, paras. 1 and 3, of the Criminal Procedure Code).

Investigative bodies, investigators and prosecutors can apply measures to preserve assets for confiscation without prior request (art. 233 of the Criminal Procedure Code).

Armenia has not yet received a request regarding asset recovery from a foreign State. Therefore, it is not possible to review the implementation of article 55, paragraphs 1 and 2, of the Convention.

There are no additional requirements set forth in the legislation regarding the contents of requests for mutual legal assistance involving freezing, seizure or confiscation.

When providing mutual legal assistance, Armenia can apply the requesting State's legislation if so provided for under an international agreement (art. 474, para. 2, of the Criminal Procedure Code); otherwise, domestic laws and procedures are applied.

In the course of the review, Armenia provided copies of its laws giving effect to article 55 of the Convention.

Requests for freezing and seizure can be carried out on the basis of reciprocity; however, requests for confiscation require a treaty basis (provided by, inter alia, the Convention; see art. 5, para. 3, of the Constitution).

There is no legislation on refusing or lifting provisional measures in the absence of sufficient and timely evidence or if the property is of *de minimis* value, and the authorities confirmed that, in practice, Armenia would request additional information in such cases. Should no information be forthcoming, provisional measures could be refused or lifted in direct application of the Convention.

In direct application of the Convention, the requesting State party could be given an opportunity to submit its reasons in favour of maintaining provisional measures.

The rights of bona fide third parties are protected (art. 103, paras. 2 and 3, of the Criminal Code).

Return and disposal of assets (art. 57)

While there is no legislative obstacle to the return of property as foreseen by the Convention, there are no specific provisions obliging Armenia to return property to the requesting State in accordance with the Convention.

Bona fide third-party rights are protected in forfeiture proceedings (art. 103, paras. 2 and 3, of the Criminal Code).

Although costs would usually be shared on the basis of reciprocity, Armenia can, in direct implementation of the Convention, deduct reasonable expenses incurred. Some bilateral treaties foresee that the costs of executing requests should be borne by the

²⁰ Development after the country visit: the Armenian authorities indicated that the Parliament had adopted the Law on Civil Forfeiture of Illegal Assets on 16 April 2020.

requested State (except for specific extraordinary costs, as in, for example, art. 17 of the mutual legal assistance treaty with Kuwait).

Armenia has not concluded specific agreements on the final disposal of confiscated property. One bilateral treaty foresees that, upon request, all or part of the proceeds of crime are to be transferred to the requesting State (art. 16, para. 4, of the mutual legal assistance treaty with China). Others foresee that the parties are to take measures to agree on the division of the proceeds of crime through a protocol to the treaty or agreement (art. 17, para. 2, of the treaty with Egypt; and art. 16, para. 2, of the treaty with Kuwait), or that confiscated properties and profits derived from an offence under an enforceable judgment or decision are to be put at the disposal of the requesting State (art. 20, para. 3, of the treaty with the Islamic Republic of Iran).

3.2. Successes and good practices

- Declarations of property and income, with the exception of the personal data they contain, are being made available on a dedicated website (art. 52, para. 5).

3.3. Challenges in implementation

It is recommended that Armenia:

- Require financial institutions to conduct enhanced scrutiny of accounts sought or maintained by or on behalf of national politically exposed persons and their family members, as well as by close associates of national and foreign politically exposed persons, monitoring to ensure that the term “persons otherwise associated with them” is interpreted to include legal persons. Should this not be the case, legislative reform is required (art. 52, para. 1).²¹
- Further to the obligation to declare assets in Armenia and abroad and to the rules on declaring conflicts of interest, consider adopting measures to require relevant public officials who have any interest in or signature or other powers over a financial account abroad to report that relationship to the appropriate authorities and to maintain appropriate records, and establishing adequate sanctions for non-compliance (art. 52, para. 6).
- Consider the possibility of adopting measures to allow for non-conviction-based confiscation under the circumstances set out in article 54, paragraph 1 (c), of the Convention.²²
- Adopt measures on the return and disposal of confiscated property in accordance with article 57, paragraphs 1–3, of the Convention, ensuring the protection of the rights of bona fide third parties not only in the forfeiture, but also in the return (art. 57, paras. 1–3); and ensure that confiscated property is returned to the requesting State in accordance with article 57, paragraph 3, of the Convention, including in cases in which bilateral treaties would foresee otherwise (art. 57, paras. 3 and 5).
- Enhance cooperation among the Financial Monitoring Center and other institutions at the national and international levels, ensuring that any obstacles caused by bank secrecy laws can be overcome effectively (art. 58).
- Consider concluding specific agreements or arrangements to enhance the effectiveness of international cooperation undertaken pursuant to the chapter V of the Convention (art. 59).

²¹ Development after the country visit: the Armenian authorities indicated that a draft amendment to the Law on Combating Money-Laundering and Terrorism Financing foresaw defining domestic politically exposed persons, including their family members and persons otherwise associated with them, as fulfilling the higher risk criterion, thus making them subject to enhanced due diligence.

²² Development after the country visit: the Armenian authorities indicated that the Parliament had adopted the Law on Civil Forfeiture of Illegal Assets on 16 April 2020.

3.4. Technical assistance needs identified to improve implementation of the Convention

- Support in raising public awareness about asset forfeiture legislation, including to address myths and misperceptions regarding asset forfeiture proceedings (art. 54, para. 1 (c)).
 - Support in strengthening international and regional cooperation (arts. 54–57 and 59).
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