

Overall Score:

**63 - Weak**

Legal Framework Score:

**86 - Strong**

Actual Implementation Score:

**39 - Very Weak**

Category 1. Non-Governmental Organizations, Public  
Information and Media

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## 1.1. <sup>73</sup>Anti-Corruption Non-Governmental Organizations

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### 1. Are anti-corruption/good governance NGOs legally protected?

67

01a. In law, citizens have a right to form NGOs focused on anti-corruption or good governance.

Yes

No

#### Comments:

The Law on Public Organizations guarantees a person's right to freely set up an organization (Article 3.2). It also states that an organization determines independently its goals and objectives (Article 4.2). There are no specific provisions for anti-corruption/good governance NGOs, hence they fall under the general category of public organizations, with the above-mentioned law being applicable to them as well.

#### References:

National Assembly of the Republic of Armenia, 2001, Law of the Republic of Armenia on Public Organizations. [http://www.parliament.am/law\\_docs/241201HO268eng.pdf](http://www.parliament.am/law_docs/241201HO268eng.pdf) (Accessed August 18, 2011). Article 3: The Concept of Public Organization, Section 2. Article 4: Principles of Activity of Organizations, Section 2.

**Yes:** A YES score is earned when freedom to assemble into groups promoting good governance or anti-corruption is protected by law, regardless of political ideology, religion or objectives. Groups with a history of violence or terrorism (within last ten years) may be banned. Groups sympathetic to or related to banned groups must be allowed if they have no history of violence. Non-governmental organizations (NGOs) are defined here as any organized group that is separate from the state working on issues of governance, transparency, and/or anti-corruption.

**No:** A NO score is earned when any single non-violent group is legally prohibited from organizing to promote good governance or anti-corruption. These groups may include non-violent separatist groups, political parties or religious groups.

01b. In law, anti-corruption/good governance NGOs are free to accept funding from any foreign or domestic sources.

Yes | No

**Comments:**

Article 17.1 stipulates that “The organization’s property comes from membership fees; grants; donations; from activities carried out in the manner prescribed by the law, and from other sources not prohibited by the law, including foreign ones.”

**References:**

National Assembly of the Republic of Armenia, 2001, Law of the Republic of Armenia on Public Organizations. [http://www.parliament.am/law\\_docs/241201HO268eng.pdf](http://www.parliament.am/law_docs/241201HO268eng.pdf) (Accessed August 18, 2011). Article 17, Property of the Organization, Section 1.

**Yes:** A YES score is earned if anti-corruption/good governance NGOs face no legal or regulatory restrictions to raise or accept funds from any foreign or domestic sources. A YES score may still be earned if funds from groups with a history of violence or terrorism (within last ten years) are banned.

**No:** A NO score is earned if there any formal legal or regulatory bans on foreign or domestic funding sources for NGOs focused on anti-corruption or good governance.

01c. In law, anti-corruption/good governance NGOs are required to disclose their sources of funding.

Yes | No

**Comments:**

Current legislation does not envision any disclosure of funding.

**References:**

National Assembly of the Republic of Armenia, 2001, Law of the Republic of Armenia on Public Organizations. [http://www.parliament.am/law\\_docs/241201HO268eng.pdf](http://www.parliament.am/law_docs/241201HO268eng.pdf) (Accessed August 18, 2011).

**Yes:** A YES score is earned if anti-corruption/good governance NGOs are required to publicly disclose their sources of funding.

**No:** A NO score is earned if no such public disclosure requirement exists.

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## 2. Are anti-corruption/good governance NGOs able to operate freely?

67

02a. In practice, the government does not create barriers to the organization of new anti-corruption/good governance NGOs.

100 | 75 | 50 | 25 | 0

**Comments:**

The U.S. human rights report describes the procedures for forming an NGO as “cumbersome.” This is applicable to anti-corruption/good governance NGOs as well.

According to the Law on Public Organizations, new NGOs are required to register with the State Registry within the Ministry of Justice. It has to submit an application, the protocol of the founder’s assembly, founders’ and authorized persons’ passport information, phone numbers and email addresses, two copies of the organization’s charter and a receipt of duty paid for the registration (Law on Public Organizations, Article 12.2) The registration body has 21 days to consider the application (Article 12.3).

The United States Agency for International Development NGO Sustainability Index 2010 gives the following assessment to this process: “Although the registration process is generally accessible, there are complex bureaucratic procedures that require significant documentation and multiple visits to the State Registry. For NGOs outside of the capital, this might mean several visits to Yerevan.” (p. 28)

**References:**

National Assembly of the Republic of Armenia, 2001, Law of the Republic of Armenia on Public Organizations. [http://www.parliament.am/law\\_docs/241201HO268eng.pdf](http://www.parliament.am/law_docs/241201HO268eng.pdf) (Accessed August 18, 2011).

United States Agency for International Development, 2010 NGO Sustainability Index for Central and Eastern Europe and Eurasia. [http://www.usaid.gov/locations/europe\\_eurasia/dem\\_gov/ngoindex/2010/complete\\_document.pdf#page=41](http://www.usaid.gov/locations/europe_eurasia/dem_gov/ngoindex/2010/complete_document.pdf#page=41) (Accessed November 10, 2011).

U.S. Department of the State, 2011, “2010 Human Rights Report: Armenia.” <http://www.state.gov/g/drl/rls/hrrpt/2010/eur/154411.htm> (Accessed August 24, 2011).

**100:** NGOs focused on promoting good governance or anti-corruption can freely organize with little to no interaction with the government, other than voluntary registration.

**75:**

**50:** NGOs focused on promoting good governance or anti-corruption must go through formal steps to form, requiring interaction with the state such as licenses or registration. Formation is possible, though there is some burden on the NGO. Some unofficial barriers, such as harassment of minority groups, may occur.

**25:**

**0:** Other than pro-government groups, NGOs focused on promoting good governance or anti-corruption are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear.

02b. In practice, anti-corruption/good governance NGOs actively engage in the political and policymaking process.

100 | 75 | 50 | 25 | 0

**Comments:**

In general, Armenian NGOs are not very strong in terms of policy impact (Hakobyan, et al, 2010). There are several anti-corruption NGOs that are active: Transparency International Anti-Corruption Center (see, for example, its most recent initiative on public discussion of Yerevan Master Plan proposed changes together with Yerevan Municipality at <http://transparency.am/ymp.php>), and Armenian Helsinki Committee (<http://www.armhels.com/index.php?lang=eng>), a network of Advocacy and Assistance Centers (AAC) created under the United States Agency for International Development Mobilizing Action Against Corruption program (<http://www.aac.am/index.php?lang=en>).

According to a 2011 Freedom House report by Alexander Ishkanyan, since 2008, the AACs have handled more than 1,300 cases related to corruption in a variety of sectors. In addition to that, the AACs conduct public awareness activities and promote the adoption of anti-corruption reforms in coordination with the government.

#### References:

Hakobyan, Lusine, et al, 2010, Armenian Civil Society: From Transition to Consolidation, Yerevan, Armenia: Counterpart International. Analytical Country Report. [http://program.counterpart.org/Armenia/?page\\_id=48](http://program.counterpart.org/Armenia/?page_id=48) (Accessed May 24, 2011).

Iskandaryan, Alexander, 2011, Armenia, Freedom House. <http://www.freedomhouse.org/images/File/nit/2011/NIT-2011-Armenia.pdf> (Accessed August 6, 2011).

**100:** Non-governmental organizations focused on anti-corruption or good governance are an essential component of the political process. NGOs provide widely valued insights and have political power. Those NGOs play a leading role in shaping public opinion on political matters.

**75:**

**50:** Anti-corruption/good governance NGOs are active, but may not be relevant to political decisions or the policymaking process. Those NGOs are willing to articulate opinions on political matters, but have little access to decision makers. They have some influence over public opinion, but considerably less than political figures.

**25:**

**0:** Anti-corruption/good governance NGOs are effectively prohibited from engaging in the political process. Those NGOs are unwilling to take positions on political issues. They are not relevant to changes in public opinion.

02c. In practice, no anti-corruption/good governance NGOs have been shut down by the government for their work on corruption-related issues during the study period.

Yes

No

#### Comments:

The Armenian Helsinki Committee: Human Rights in Armenia report contains a stream of news and reports up to April 2011 (see, for example, "Ditord" section at <http://www.armhels.com/index.php?menu1=41>) or news section (<http://www.armhels.com/index.php?menu1=5>), which I read in order to see if there were any cases of NGOs being closed down in Armenia. No reports on closing down of corruption/good governance NGOs were found in the reports on human rights (including right of association) or in the chronology of human rights abuses compiled by the Armenian Helsinki Committee.

#### References:

Armenian Helsinki Committee, copyright 2008, reports up to 2011: Armenian Helsinki Committee: Human Rights in Armenia. <http://www.armhels.com/index.php?lang=eng> (Accessed September 5, 2011).

**Yes:** A YES score is earned if there were no NGOs shut down by the government or forced to cease operations because of their work on corruption-related issues during the study period. YES is a positive score.

**No:** A NO score is earned if any NGO has been effectively shut down by the government or forced to cease operations because of its work on corruption-related issues during the study period. The causal relationship between the cessation of operations and the NGO's work may not be explicit, however the burden of proof here is low. If it seems likely that the NGO was forced to cease operations due to its work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

### 3. Are anti-corruption/good governance NGO activists safe when working on corruption issues?

03a. In practice, in the past year, no anti-corruption/good governance NGO activists working on corruption issues have been imprisoned.

Yes

No

**Comments:**

The Armenian Helsinki Committee: Human Rights in Armenia report contains a stream of news and reports up to April 2011 (see, for example, "Ditord" section at <http://www.armhels.com/index.php?menu1=41>) or news section (<http://www.armhels.com/index.php?menu1=5>), which I read in order to see if there were any cases of NGOs being closed down in Armenia. There were none.

**References:**

Armenian Helsinki Committee, reports up to 2011, Armenian Helsinki Committee: Human Rights in Armenia. <http://www.armhels.com/index.php?lang=eng> (Accessed September 5, 2011).

**Yes:** A YES score is earned if there were no NGO activists imprisoned because of their work covering corruption. YES is a positive score.

**No:** A NO score is earned if any activist was jailed in relation to work covering corruption. The causal relationship between the official charges and the person's work may not be explicit, however the burden of proof here is low. If it seems likely that the person was imprisoned due to his or her work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes. "Imprisoned" is defined here as detention by the government lasting more than 24 hours.

03b. In practice, in the past year, no anti-corruption/good governance NGO activists working on corruption issues have been physically harmed.

Yes

No

**Comments:**

The Armenian Helsinki Committee: Human Rights in Armenia report contains a stream of news and reports up to April 2011 (see, for example, "Ditord" section at <http://www.armhels.com/index.php?menu1=41>) or the news section (<http://www.armhels.com/index.php?menu1=5>), which I read in order to see if there were any cases of NGOs being closed down in Armenia. There were none.

**References:**

Armenian Helsinki Committee, 2011, Armenian Helsinki Committee: Human Rights in Armenia, <http://www.armhels.com/index.php?lang=eng> (Accessed September 5, 2011).

**Yes:** A YES score is earned if there were no documented cases of NGO activists covering corruption being assaulted in the specific study period. A YES score can be earned if there was an attack but it was clearly unrelated to the activist's work. YES is a positive score.

**No:** A NO score is earned if there were any documented cases during the study period of assault to an activist who covers corruption. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

03c. In practice, in the past year, no anti-corruption/good governance NGO activists working on corruption issues have been killed.

Yes

No

**Comments:**

The Armenian Helsinki Committee: Human Rights in Armenia report contains a stream of news and reports up to April 2011 (see, for example, "Ditord" section at <http://www.armhels.com/index.php?menu1=41>) or the news section (<http://www.armhels.com/index.php?menu1=5>), which I read in order to see if there were any cases of NGOs being closed down in Armenia. There were none.

**References:**

Armenian Helsinki Committee, 2011, Armenian Helsinki Committee: Human Rights in Armenia, <http://www.armhels.com/index.php?lang=eng> (Accessed September 5, 2011).

**Yes:** A YES score is earned if there were no documented cases of NGO activists being killed because of their work covering corruption in the specific study period. YES is a positive score.

**No:** A NO score is earned if there were any documented cases during the study period where a person was killed related to a corruption trial, scandal or investigation. The relationship between a mysterious death and an individual's history may not be clear, however the burden of proof here is low. If it is reasonable that a person was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

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#### 4. Can citizens organize into trade unions?

63

04a. In law, citizens have a right to organize into trade unions.

Yes

No

**Comments:**

Article 28 of the Constitution states: "Everyone shall have the right to freedom of association with others, including the right to form and to join trade unions."

The Law on Trade Unions, Article 6, specifies that employees working in and outside of Armenia, regardless of citizenship, can be members of trade organizations, except members of the armed forces and law enforcement agencies.

**References:**

Constitution of the Republic of Armenia, 2005. <http://www.parliament.am/parliament.php?id=constitution&lang=eng>. Article 28

National Assembly of the Republic of Armenia, 2010, Law of the Republic of Armenia on Trade Unions, Article 6. <http://www.parliament.am/legislation.php?sel=show&ID=1504&lang=rus> (Accessed August 16, 2011).

**Yes:** A YES score is earned when trade unions are allowed by law, regardless of political ideology, religion or objectives. Groups with a history of violence or terrorism (within last ten years) may be banned. Groups sympathetic to or related to banned groups must be allowed if they have no history of violence.

**No:** A NO score is earned when any single non-violent trade union is legally prohibited by the government from organizing.

04b. In practice, citizens are able to organize into trade unions.

100 | 75 | 50 | 25 | 0

**Comments:**

Labor organizations are weak and relatively inactive, according to Alexander Iskandaryan's report on Armenia.

According to the Sargsyan, et al, study, although 23 percent of the members of the employed population are members of trade unions, trade unions suffer from a number of problems, ranging from financial to internal managerial. They remain passive in the political sphere and are not visible enough in Armenian social life. Trade union leaders often lack understanding of their role as rights defenders rather than social benefit distributors. Rights of workers and rights of trade unions as organizations are not well-known. Trade union leaders do, however, sometimes participate in major legislative debates (for example, in discussing changes to labor code, May 2010).

**References:**

Alexander Iskandaryan, 2011, Armenia, Freedom House. <http://www.freedomhouse.org/images/File/nit/2011/NIT-2011-Armenia.pdf> (Accessed August 6, 2011).

R. Sargsyan, L. Balyan, N. Nersisyan, and A. Petrosyan, 2010, 54 Armenian Trade Unions: Problems, Challenges and Needs, Yerevan, Armenia: Friedrich-Ebert-Stiftung. [http://fes.ge/images/Fes\\_Files/2011-Publ-AM/report%20 tu\\_needs\\_fes\\_en\\_08.02.2011.pdf](http://fes.ge/images/Fes_Files/2011-Publ-AM/report%20tu_needs_fes_en_08.02.2011.pdf)(Accessed August 16, 2011).

**100:** Trade unions are common and are an important part of the political process and political discourse. Trade union organizers have widely understood rights. Trade unions are free from intimidation or violence.

**75:**

**50:** Trade unions exist, but are not always relevant to politics or policy debates. Barriers to organizing trade unions exist, such as intimidation at work, or retribution firings. Trade union organizers have some rights, but these may not be commonly known, or are difficult to defend.

**25:**

**0:** Trade unions are rare. Significant barriers to organization exist, including direct violence. Rights of union organizers are not widely known, or are ineffective in protecting organizers.

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## 1.2. Media's Ability to Report on Corruption

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### 5. Are media and free speech protected?

100

05a. In law, freedom of the media is guaranteed.

Yes | No

**Comments:**

The Constitution, Article 27, states: "Freedom of mass media and other means of mass information shall be guaranteed."

The Law on Mass Media, Article 4.2, states: "Information media are being produced and disseminated without prior or ongoing government registration, licensing, accreditation by state or other body or informing any body."

**References:**

Constitution of the Republic of Armenia, 2005. <http://www.parliament.am/parliament.php?id=constitution&lang=eng>. Article 27

National Assembly of the Republic of Armenia, 2003, Law of the Republic of Armenia on Mass Communication, Article 4. <http://www.parliament.am/legislation.php?sel=show&ID=1890&lang=rus> (Accessed August 16, 2011).

**Yes:** A YES score is earned if freedom of the press is guaranteed in law, including to all political parties, religions, and ideologies.

**No:** A NO score is earned if any specific publication relating to government affairs is legally banned, or any general topic is prohibited from publication. Specific restrictions on media regarding privacy or slander are allowed, but not if these amount to legal censorship of a general topic, such as corruption or defense. A NO score is earned if non-government media is prohibited or restricted.

05b. In law, freedom of speech is guaranteed.

Yes | No

**Comments:**

The Constitution's Article 27 states: "Everyone shall have the right to freely express his/her opinion. No one shall be forced to recede or change his/her opinion."

The Law on Mass Communication, Article 4, states: "Journalists and others involved in information dissemination act freely, based on principles of equality, legality, freedom of speech (expression) and pluralism. ... Censorship is prohibited."

**References:**

Constitution of the Republic of Armenia, 2005. <http://www.parliament.am/parliament.php?id=constitution&lang=eng>. Article 27

National Assembly of the Republic of Armenia, 2003, Law of the Republic of Armenia on Mass Communication, Article 4. <http://www.parliament.am/legislation.php?sel=show&ID=1890&lang=rus> (Accessed August 16, 2011).

**Yes:** A YES score is earned if freedom of individual speech is guaranteed in law, including to all political parties, religions, and ideologies.

**No:** A NO score is earned if any individual speech is legally prohibited, regardless of topic. Specific exceptions for speech linked with a criminal act, such as a prohibition on death threats, are allowed. However, any non-specific prohibition earns a NO score.

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## 6. Are citizens able to form print media entities?



06a. In practice, the government does not create barriers to form a print media entity.

100 | 75 | **50** | 25 | 0

**Comments:**

According to Manana Aslamazyan, the government does not create any barriers, but does not help either. There is no system of distribution; the state printing houses are expensive and may treat opposition papers unfavorably. There is no state help given to print media.

**References:**

Manana Aslamazyan, Internews Network, director of the Alternative Resources in Media Program in Armenia. Date of interview: August 26, 2011. Place of interview: Yerevan, Armenia, Eurasia Partnership Foundation Office.

**100:** Print media entities can freely organize with little to no interaction with the government. This score may still be earned if groups or individuals with a history of political violence or terrorism (within last ten years) are banned from forming media entities.

**75:**

**50:** Formation of print media groups is possible, though there is some burden on the media group including overly complicated registration or licensing requirements. Some unofficial barriers, such as harassment of minority groups, may occur.

**25:**

**0:** Print media groups are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear.

06b. In law, where a print media license is necessary, there is an appeals mechanism if a license is denied or revoked.

**Yes** | No

**Comments:**

Armenian legislation envisions licensing for TV and radio, but not for print media. This information is confirmed by an interview with Manana Aslamazyan.

**References:**

Manana Aslamazyan, Internews Network, director of the Alternative Resources in Media Program in Armenia. Date of interview: August 26, 2011. Place of interview: Yerevan, Armenia, Eurasia Partnership Foundation Office.

**Yes:** A YES score is earned if there is, in law or in accompanying regulations, a formal process to appeal a denied print media license, including through the courts. A YES score is also earned if no print license is necessary.

**No:** A NO score is earned if there is no appeal process for print media licenses.

06c. In practice, where necessary, citizens can obtain a print media license within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Armenian legislation envisions licensing for TV and radio, but not for print media. This information is confirmed by an interview with Manana Aslamazyan.

**References:**

Manana Aslamazyan, Internews Network, director of the Alternative Resources in Media Program in Armenia. Date of interview: August 26, 2011. Place of interview: Yerevan, Armenia, Eurasia Partnership Foundation Office.

**100:** Licenses are not required or licenses can be obtained within two months.

**75:**

**50:** Licensing is required and takes more than two months. Some groups may be delayed up to six months.

**25:**

**0:** Licensing takes close to or more than one year for most groups.

06d. In practice, where necessary, citizens can obtain a print media license at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Armenian legislation envisions licensing for TV and radio, but not for print media. This information is confirmed by an interview with Manana Aslamazyan.

**References:**

Manana Aslamazyan, Internews Network, director of the Alternative Resources in Media Program in Armenia. Date of interview: August 26, 2011. Place of interview: Yerevan, Armenia, Eurasia Partnership Foundation Office.

**100:** Licenses are not required or can be obtained at minimal cost to the organization. Licenses can be obtained on-line or through the mail.

**75:**

**50:** Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

## 7. Are citizens able to form broadcast (radio and TV) media entities?

31

07a. In practice, the government does not create barriers to form a broadcast (radio and TV) media entity.

100 | 75 | 50 | 25 | 0

### Comments:

According to Freedom House, Armenian media is not free. There are particular problems with preventing unwanted TV channels from broadcasting, and licensing is effectively used as a tool to do so. Politicization of the licensing processes is evident in the continued suspension of the license for independent broadcaster "A1+," off the air since 2002 by a government licensing decision despite a European Court of Human Rights ruling in favor of "A1+" in 2008.

According to Manana Aslamazyan, licensing is not transparent; there is a lot of subjectivity. The committee that awards the licenses is under significant pressure from the government. With the switch to digital TV, the government has limited the amount of digital frequencies available; that is particularly felt in the regions where only one frequency per region is allowed.

### References:

Freedom House, "Armenia 2011, Freedom of the Press." <http://www.freedomhouse.org/template.cfm?page=251&year=2011> (Accessed September 19, 2011).

Manana Aslamazyan, Internews Network, director of the Alternative Resources in Media Program in Armenia. Date of interview: August 26, 2011. Place of interview: Yerevan, Armenia, Eurasia Partnership Foundation Office

**100:** Broadcast media entities can freely organize with little to no interaction with the government. Media groups have equal access to broadcast bandwidth through a reasonably fair distribution system. This score may still be earned if groups or individuals with a history of political violence or terrorism (within last ten years) are banned from forming media entities.

**75:**

**50:** Formation of broadcast media groups is possible, though there is some burden on the media group including overly complicated registration or licensing requirements. Some unofficial barriers, such as harassment of minority groups, may occur. Division of broadcast bandwidth is widely viewed to be somewhat unfair.

**25:**

**0:** Broadcast media groups are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear. This score is appropriate if the division of broadcast bandwidth is widely viewed to be used as a political tool.

07b. In law, where a broadcast (radio and TV) media license is necessary, there is an appeals mechanism if a license is denied or revoked.

Yes | No

### Comments:

According to the Law on Television and Radio Broadcasting, the rejection of a license can be appealed in court (Article 51). The decision of the National Commission to abolish a license also can be appealed in court. If the decision of abolishing the license is

considered to be groundless, the National Commission is obligated to compensate for the damages caused to the television and radio company (Article 55).

**References:**

National Assembly of the Republic of Armenia, 2000, Law of the Republic of Armenia on Television and Radio Broadcasting, Articles 51 and 55.

<http://www.parliament.am/legislation.php?sel=show&ID=1464&lang=eng> (Accessed August 16, 2011).

**Yes:** A YES score is earned if there is, in law or in accompanying regulations, a formal process to appeal a denied broadcast media license, including through the courts. A YES score is also earned if no broadcast license is necessary.

**No:** A NO score is earned if there is no appeal process for broadcast media licenses.

07c. In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

There is one point in time when licenses are being granted by a decision of the National Commission on TV and Radio. According to its procedures, after the competition for licenses is announced, there are 30 days to apply and an additional 50 days for the decision-making; the final decision is made on the 150th day after announcing the competition.

According to Manana Aslamazyan, the competition is announced every four years. Getting a license outside of this process is practically impossible.

**References:**

Manana Aslamazyan, Internews Network, director of the Alternative Resources in Media Program in Armenia. Date of interview: August 26, 2011. Place of interview: Yerevan, Armenia, Eurasia Partnership Foundation Office.

Republic of Armenia National Commission on Television and Radio, 2010,. Decision on Establishing Licensing Competition Procedures for Television Program Broadcasting through Digital Network. <http://www.tvradio.am/?p=2678> (Accessed August 17, 2011).

**100:** Licenses are not required or licenses can be obtained within two months.

**75:**

**50:** Licensing is required and takes more than two months. Some groups may be delayed up to six months.

**25:**

**0:** Licensing takes close to or more than one year for most groups.

07d. In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

The Law on State Fees, Article 19.7, stipulates the license cost for nationwide coverage as a basic state fee times 500, or roughly about \$1,300.

Manana Aslamazyan said the license fee is not a problem, but the TV company has to show that it has enough funds to operate the channel right from the start, instead of showing a business plan that demonstrates how the company plans to earn the necessary funds. That request to demonstrate available funds or to have an investor is a financial burden that makes the startup difficult.

**References:**

Manana Aslamazyan, Internews Network, director of the Alternative Resources in Media Program in Armenia. Date of interview: August 26, 2011. Place of interview: Yerevan, Armenia, Eurasia Partnership Foundation Office.

National Assembly of the Republic of Armenia, 1997, Law of the Republic of Armenia on State Fees, Article 19.7. <http://www.parliament.am/legislation.php?sel=show&ID=1370&lang=rus> (Accessed August 18, 2011).

**100:** Licenses are not required or can be obtained at minimal cost to the organization. Licenses can be obtained on-line or through the mail.

**75:**

**50:** Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

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## 8. Can citizens freely use the Internet?

88

08a. In practice, the government does not prevent citizens from accessing content published on-line.

100 | 75 | 50 | 25 | 0

**Comments:**

According to the IREX report, Armenian media experts agree that the government does not (cannot) control Internet access.

According to Elisabeth Robson, "Internet sites were blocked on 1 March 2008 for two weeks, but not since." (p 22). Robson also noted that "currently Internet is left alone," meaning no government control.

According to the U.S. Human Rights Report, "During the year there were no government restrictions on access to the Internet or reports of suspected government monitoring of email or Internet chat conversations. During the year there were no reported cases of the government deliberately blocking independent or pro-opposition websites."

**References:**

IREX, 2011, Armenia Media Sustainability Index (MSI), International Research and Exchanges Board.  
<http://www.irex.org/resource/armenia-media-sustainability-index-msi> (Accessed August 6, 2011).

Elisabeth Robson, 2011, "Media freedom in Armenia: One step forward, two steps back," In Spotlight on Armenia, The Foreign Policy Centre, p. 21-25. <http://fpc.org.uk/fsblob/1331.pdf> (Accessed June 5, 2011).

U.S. Department of State, 2011, "2010 Human Rights Report: Armenia." <http://www.state.gov/g/drl/rls/hrrpt/2010/eur/154411.htm> (Accessed August 24, 2011).

**100:** The government does not prevent Internet users from accessing online content. While some forms of content may be illegal to download or own (such as child pornography), the government does not manipulate networks to prevent access to this information. This indicator addresses direct government intervention in the transfer of information, not indirect deterrents such as intimidation, surveillance or technical difficulties in countries with poor infrastructure.

**75:**

**50:** Internet users are prevented by the government from reaching online content in some cases. Government tactics may include firewalls preventing access to networks in other countries, or manipulating search engine results to exclude politically sensitive topics.

**25:**

**0:** Internet users are routinely prevented from accessing online content. Government restrictions are in place at all times for certain topics. Government tactics may include firewalls preventing access to networks in other countries, or manipulating search engine results to exclude politically sensitive topics.

08b. In practice, the government does not censor citizens creating content on-line.

100 | **75** | 50 | 25 | 0

**Comments:**

According to a Freedom House assessment of the situation, the authorities do not interfere with Internet access.

However Manana Aslamazyan said that there is a certain amount of self-censorship, since bloggers and those posting content online fear potential political and societal pressure. Those who post online are cautious to some extent.

**References:**

Manana Aslamazyan, Internews Network, director of the Alternative Resources in Media Program in Armenia. Date of interview: August 26, 2011. Place of interview: Yerevan, Armenia, Eurasia Partnership Foundation Office.

Freedom House, "Armenia 2011. Freedom in the World." <http://www.freedomhouse.org/> (Accessed September 19, 2011).

**100:** The government never removes online information or disables servers due to their political content. All political speech is protected with limited exceptions, such as legitimate intellectual property restrictions; direct calls to violence; or pornography.

**75:**

**50:** In some cases, the government restricts political speech by its citizens on the Internet. This is accomplished either directly by controlling servers hosting restricted content, or indirectly through threats or intimidation against the persons posting political content.

**25:**

0: The government regularly restricts political speech by its citizens on the Internet. This is accomplished either directly by controlling servers hosting the restricted content, or indirectly through threats or intimidation against the persons posting political content.

## 9. Are the media able to report on corruption?

50

09a. In law, it is legal to report accurate news even if it damages the reputation of a public figure.

Yes

No

### Comments:

The Constitution, Article 27, states: "Everyone shall have the right to freedom of expression including freedom to search for, receive and impart information."

The Law on Mass Communication, Article 4, stipulates the principles of free speech and plurality, and states that journalists and persons engaged in information activities act freely.

### References:

Constitution of the Republic of Armenia, 2005.

<http://www.parliament.am/parliament.php?id=constitution&lang=eng>. Article 27.

National Assembly of the Republic of Armenia, 2003, Law of the Republic of Armenia on Mass Communication, Article 4. <http://www.parliament.am/legislation.php?sel=show&ID=1890&lang=rus> (Accessed August 16, 2011).

**Yes:** A YES score is earned if it is legal to report accurate information on public figures regardless of damage to their reputations. Public figures are defined broadly, including anyone in a position of responsibility in the government or civil service; any political leader; leaders of civil society groups including religious groups, trade unions, or NGOs; leaders or officers of large businesses. A YES score can still be earned if a reckless disregard for the truth (i.e. slander) is prohibited.

**No:** A NO score is earned if privacy laws protect any public figures (as defined in the YES coding) from accurate information.

09b. In practice, the government or media owners/distribution groups do not encourage self-censorship of corruption-related stories.

100

75

50

25

0

### Comments:

Each medium has something like an image, depending on who the owner is and the businesses that place advertisements. People who enter these media know about this and act accordingly from the start. They would not report on corruption-related stories that cast a shadow on the media owner or friendly business.

The village of Kajaran in the south of Armenia is at the risk of forced resettlement, as the government decided to grant the land on which it is located to a mining company. This story is covered online and in newspapers that lean toward the opposition. Pro-government newspapers do not seem to be interested in the issue. A digest of news posts (in Armenian) can be found here: <http://www.ecolor.org/hy/news/mining/qajaran-village-in-spotlight-of-general-public/3349/>

**References:**

Marina Mkhitarian, 2011, "Censorship in Armenian Media," program manager for Media at Eurasia Partnership Foundation-Armenia, Yerevan. Date of interview: Sept. 14, 2011. Place of interview: Eurasia Partnership Foundation office, Yerevan, Armenia.

**100:** The government, its proxies, or media ownership/distribution groups make no attempt to restrict media coverage of corruption-related issues through unofficial means.

**75:**

**50:** The government, its proxies, or media ownership/distribution groups make some attempts to restrict media coverage of corruption-related issues through unofficial means, such as restricting access by disfavored media outlets, or other short-term consequences. Violent reprisals against media outlets are rare.

**25:**

**0:** The government, its proxies, or media ownership/distribution groups actively use illegal methods to restrict reporting of corruption-related issues. This may include harassment, arrests, and threats. Journalists and publishers take a personal risk to report on corruption, and media outlets who commonly report on corruption face long-term consequences or violent reprisals.

09c. In practice, there is no prior government restraint (pre-publication censoring) on publishing corruption-related stories.

100 | 75 | 50 | **25** | 0

**Comments:**

It's not like the government daily checks what is about to go into print/broadcast media, but in each major medium the person who is in charge of selecting news for print/broadcast is "appointed" by the government and knows what to do. Corruption stories don't get through accidentally. If a corruption story has been published, it means it was leaked to the press on purpose with the government's informal approval.

**References:**

Marina Mkhitarian, 2011, "Censorship in Armenian Media," program manager for Media at Eurasia Partnership Foundation-Armenia, Yerevan. Date of interview: September 14, 2011. Place of interview: Eurasia Partnership Foundation office, Yerevan, Armenia.

**100:** The government never prevents publication of controversial corruption-related materials.

**75:**

**50:** The government prevents publication of controversial corruption-related material in cases where there is a strong political incentive to suppress the information. This score is appropriate if in countries where illiteracy is high, the government may allow a free print press but censor broadcast media.

**25:**

**0:** The government regularly censors material prior to publication, especially politically sensitive or damaging corruption-related material. This score is appropriate even if the government restricts only politically damaging news while allowing favorable coverage.

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## 10. Are the media credible sources of information?



10a. In law, print media companies are required to publicly disclose their ownership.

Yes

No

**Comments:**

There are no laws or regulations requiring public disclosure of ownership of either print or broadcast media. This was confirmed during an interview with Manana Aslamazyan, who also expressed the concern that media ownership is not transparent at all.

**References:**

Manana Aslamazyan, Internews Network, director of the Alternative Resources in Media Program in Armenia. Date of interview: August 26, 2011. Place of interview: Yerevan, Armenia, Eurasia Partnership Foundation Office.

**Yes:** A YES score is earned if print media companies are required by law to publicly disclose all owners of the company.

**No:** A NO score is earned if there is no such requirement or if the requirement is optional, only partially applicable, or exempts certain types of entities or agents from being publicly disclosed.

10b. In law, broadcast (radio and TV) media companies are required to publicly disclose their ownership.

Yes

No

**Comments:**

There are no laws or regulations requiring public disclosure of ownership of either print or broadcast media. This was confirmed during an interview with Manana Aslamazyan, who also expressed the concern that media ownership is not transparent at all.

**References:**

Manana Aslamazyan, Internews Network, director of the Alternative Resources in Media Program in Armenia. Date of interview: August 26, 2011. Place of interview: Yerevan, Armenia, Eurasia Partnership Foundation Office.

**Yes:** A YES score is earned if broadcast media companies are required by law to publicly disclose all owners of the company.

**No:** A NO score is earned if there is no such requirement or if the requirement is optional, only partially applicable, or exempts certain types of entities or agents from being publicly disclosed.

10c. In practice, journalists and editors adhere to strict, professional practices in their reporting.

100

75

50

25

0

**Comments:**

According to the International Freedom of Expression Exchange report, ethical standards are not widely accepted among Armenian journalists, and there is a widespread practice of using unverified information. It is not unusual for media professionals

to accept payments or gifts in exchange for certain types of coverage. Most of the media do not make clear distinctions between news reporting and so-called advertorials.

Elisabeth Robson notes that although some 40 media organizations signed a code of conduct developed as an initiative from the independent media, dozens of important media companies have not yet become part of it, and the problem of invisible owners and indifferent senior editors, happy to take telephone calls from government officials, remains, while the state-owned Public Broadcaster has not signed up, saying it is working to establish its own code of conduct. (p 24)

According to Manana Aslamazyan, the level of journalism is very low because journalists have no motivation. They are not paid well and not protected by their editors, who are usually very careful not to alienate any powerful figure. Despite many university departments where journalism is taught, the level of young people entering the profession is extremely low. Investigative journalism is practically nonexistent.

#### References:

International Freedom of Expression Exchange, 2010, "Imprisoned activist and editor attacked, placed in strict-regime jail." [http://www.ifex.org/armenia/2010/12/02/pashinian\\_beaten/](http://www.ifex.org/armenia/2010/12/02/pashinian_beaten/) (Accessed August 17, 2011).

Elisabeth Robson, 2011, "Media freedom in Armenia: One step forward, two steps back." Spotlight on Armenia; ed. Adam Hug, The Foreign Policy Centre, p. 21-25. <http://fpc.org.uk/fsblob/1331.pdf> (Accessed June 5, 2011).

Manana Aslamazyan, Internews Network, director of the Alternative Resources in Media Program in Armenia. Date of interview: August 26, 2011. Place of interview: Yerevan, Armenia, Eurasia Partnership Foundation Office.

**100:** Editors and journalists at the major media outlets abide by a strict journalistic code of conduct and are unwilling to alter their coverage of a particular issue, event or person in exchange for money, gifts, or other favors or remuneration.

**75:**

**50:** Editors and journalists at the major media outlets generally avoid altering coverage in exchange for favors but some exceptions have been noted. Not all newsrooms abide by a formal journalistic code of conduct.

**25:**

**0:** Editors and journalists are widely known to "sell" favorable or unfavorable coverage in exchange for money, gifts, or other remuneration. The major media outlets do not abide by any formal journalistic code of conduct.

10d. In practice, during the most recent election, political parties or independent candidates received fair media coverage.

100 | 75 | 50 | 25 | 0

#### Comments:

According to the Organization for Security and Co-operation in Europe: "In the most recent presidential elections of 2008 media bias was evident. Favorable coverage of Prime Minister Sargsyan, including his official duties, granted him an undue advantage. Opposition candidate Levon Ter-Petrossian received a large volume of negative coverage, including on public TV and radio." (p. 2)

According to Elisabeth Robson: "Presidential elections in 2008 were marked by violence against journalists and tight control of all media so that opposition candidates were discredited in the media controlled by the authorities and had limited access to any outlets to present themselves to voters before the elections." (p. 21)

#### References:

Elisabeth Robson, 2011, "Media freedom in Armenia: One step forward, two steps back." In Spotlight on Armenia; ed. Adam Hug, The Foreign Policy Centre, p. 21-25. <http://fpc.org.uk/fsblob/1331.pdf> (Accessed June 5, 2011).

Organization for Security and Co-operation in Europe, 2008, Republic of Armenia Presidential Election, February 19, 2008, Warsaw, OSCE/ODIHR Election Observation Mission Report. <http://www.osce.org/odihr/elections/armenia/32115> (Accessed

**100:** All political parties and independent candidates have some access to media outlets. Individual media outlets may have biases, but on balance, the national media coverage reflects the interests of the electorate. Media groups generally act as disinterested parties in an election. In places where a government is popular with the public, opposition viewpoints can access the public via media outlets.

**75:**

**50:** Major popular media outlets have a persistent bias regarding some parties or independent candidates. Some major parties may be partially excluded from media coverage, or draw more negative coverage. Media sectors may have distinct biases, such as newspapers favoring one party, while radio favors another.

**25:**

**0:** The mass media, on balance, have clear preferences in election outcomes and coverage is driven to achieve these goals. Some major parties or independent candidates are excluded or consistently negatively portrayed by mass media. Dissenting political opinions are only found on fringe or elite media outlets, such as Web sites.

10e. In practice, political parties and candidates have equitable access to state-owned media outlets.

100 | 75 | 50 | 25 | 0

**Comments:**

Organization for Security and Co-operation in Europe: "The public media complied with their legal obligations regarding the provision of equal free airtime and candidates were able to freely convey their political messages."

Yerevan Press Club media monitoring shows that in terms of airtime distribution, the 28-day period of pre-election promotion was characterized by a generally balanced coverage of the election campaigns of presidential candidates:

The contestants did not encounter obstacles when placing their promotional materials in paid and free air of media studied; most of presidential candidates have repeatedly stated their satisfaction with the coverage of the election campaign by the broadcast media. (p 14)

This indicator is about equal access in terms of time and rates. Technically, the candidates were given the same time and we have no proof that they were charged differently.

**References:**

Organization for Security and Co-operation in Europe, 2008, Republic of Armenia Presidential Election, February 19, 2008, Warsaw, OSCE/ODIHR Election Observation Mission Report. <http://www.osce.org/odihr/elections/armenia/32115> (Accessed August 19, 2011).

Yerevan Press Club, 2008, Monitoring the Coverage of Presidential Elections 2008 by Broadcast Media of Armenia, Yerevan, Armenia. [http://www.ypc.am/upload/Elections\\_report-2008-eng.pdf](http://www.ypc.am/upload/Elections_report-2008-eng.pdf) (Accessed August 22, 2011).

**100:** The government ensures that equal access and fair treatment of election contestants is provided by all state-owned media outlets, including all electronic and print media. This obligation extends to news reports, editorial comment, and all other content. All parties and candidates are offered consistent and equivalent rates for campaign advertising on state-owned media outlets.

**75:**

**50:** The government generally ensures equal access and fair treatment of all candidates and parties by state-owned media outlets but some exceptions exist. State-owned media may occasionally discriminate against particular parties or candidates and advertising rates may be confusing or non-transparent.

**25:**

0: The government uses state-owned media to routinely discriminate against opposition candidates and parties. Advertising space may be denied to opposition candidates and parties or higher rates may be charged.

## 11. Are journalists safe when investigating corruption?

67

11a. In practice, in the past year, no journalists investigating corruption have been imprisoned.

Yes

No

### Comments:

According to Reporters Without Borders' Press Freedom Barometer 2011, no journalists have been imprisoned in Armenia in the past year. The Committee to Protect Journalists also contains no data on journalist imprisonment in the past year.

### References:

Reporters Without Borders, 2011, "Press Freedom Barometer 2011 Armenia."  
"Committee to Protect Journalists."  
<http://www.cpj.org/> (Accessed September 1, 2011).

**Yes:** A YES score is earned if there were no journalists imprisoned related to work covering corruption during the study period. A YES score is positive.

**No:** A NO score is earned if any journalist was jailed because of his/her work covering corruption during the study period. The causal relationship between the official charges and the journalist's work may not be explicit, however the burden of proof here is low. If it seems likely that the journalist was imprisoned due to his or her work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes. "Imprisoned" is defined here as detention by the government lasting more than 24 hours.

11b. In practice, in the past year, no journalists investigating corruption have been physically harmed.

Yes

No

### Comments:

The International Freedom of Expression Exchange reports that after writing from prison and publishing a series of editorials about alleged corruption in the Armenian penitentiary system, Nikol Pashinyan, an opposition activist and editor-in-chief of the independent daily "Haykakan Zhamanak," was beaten in custody, held in solitary confinement and then transferred to a prison with a stricter regime. Pashinyan is serving a four-year prison term for allegedly organizing mass riots spurred by flawed February 2008 presidential elections in Armenia. According to his lawyer, prior to the accident described, prison authorities had repeatedly ordered Pashinyan to stop writing, but he continued. The same incident is reported in the annual report of the Committee to Protect Freedom of Expression.

### References:

International Freedom of Expression Exchange, 2010, "Imprisoned activist and editor attacked, placed in strict-regime jail." [http://www.ifex.org/armenia/2010/12/02/pashinian\\_beaten/](http://www.ifex.org/armenia/2010/12/02/pashinian_beaten/) (Accessed August 17, 2011).

Committee to Protect Freedom of Expression, 2011, Annual Report 2010 On the Situation with Freedom of Speech and Violations of Rights of Journalists and Media in Armenia. <http://khosq.am/en/2011/02/1702> (Accessed September 1, 2011).

**Yes:** A YES score is earned if there were no documented cases of journalists being assaulted during the specific study period for their work covering corruption issues. A YES score is positive.

**No:** A NO score is earned if there were any documented cases of assault to a journalist covering corruption during the study period. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

11c. In practice, in the past year, no journalists investigating corruption have been killed.

Yes | No

**Comments:**

According to Reporters Without Borders' Press Freedom Barometer 2011, no journalists have been killed in Armenia in the past year. According to the Committee to Protect Journalists, no journalist has been killed in Armenia since 2002.

**References:**

Reporters Without Borders, 2011, "Press Freedom Barometer 2011 Armenia."

"Committee to Protect Journalists." <http://www.cpj.org/> (Accessed September 1, 2011).

**Yes:** A YES score is earned if there were no documented cases of journalists being killed because of their work covering corruption-related issues during the study period. A YES score is positive.

**No:** A NO score is earned if there were any documented cases where a journalist was killed in relation to his or her work covering corruption-related issues in the study period. The relationship between a mysterious death and an individual's work may not be clear, however the burden of proof here is low. If it is a reasonable guess that a person was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

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## 63

### 1.3. Public Requests for Government Information

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#### 12. Do citizens have a legal right to request information?

100

12a. In law, citizens have a right to request government information and basic government records.

Yes | No

**Comments:**

The Constitution, Article 27.1, states: "Everyone shall have the right to submit letters and recommendations to the authorized public and local self-government bodies for the protection of his/her private and public interests and the right to receive appropriate answers to them in a reasonable time."

The Freedom of Information Law, Article 6.1, states: "Each person has the right to address an inquiry to information holder to get acquainted with and/or get the information sought by him as defined by the law."

**References:**

Constitution of the Republic of Armenia, 2005. <http://www.parliament.am/parliament.php?id=constitution&lang=eng>, Article 27.1

National Assembly of the Republic of Armenia, Law of the Republic of Armenia on Freedom of Information. <http://www.parliament.am/legislation.php?sel=show&ID=1390&lang=eng> (Accessed August 16, 2011). Article 6.1

**Yes:** A YES score is earned if there is a formal right to request government documents, including constitutional guarantees. Exceptions can be made for national security reasons or individual privacy, but they should be limited in scope. All other government documents should be available upon a public request.

**No:** A NO score is earned if there is no such right.

12b. In law, citizens have a right of appeal if a request for a basic government record is denied.

Yes | No

**Comments:**

The Freedom of Information Law, Article 11.4, states: "The decision not to provide information can be appealed either in the state government body defined by legislation or in the court."

**References:**

National Assembly of the Republic of Armenia, Law of the Republic of Armenia on Freedom of Information. <http://www.parliament.am/legislation.php?sel=show&ID=1390&lang=eng> (Accessed August 16, 2011).

**Yes:** A YES score is earned if there is a formal process of appeal for rejected information requests. A YES score can still be earned if the appeals process involves redress through the courts rather than administrative appeal.

**No:** A NO score is earned if there is no such formal process.

12c. In law, there is an established institutional mechanism through which citizens can request government records.

Yes | No

**Comments:**

Each governmental body is responsible for providing information requested from it or forwarded to it. There is no centralized office or agency. There are, however, legal procedures in place.

The Freedom of Information Law, Article 9, describes the process of formal information request: written or oral inquiry format, response format, response deadlines. The law also obliges the information holder to provide grounds in case of decline (Article 11. Grounds and Procedure to Decline Information Request, Section 3).

Since March 2003 there is an electronic system for sending letters to the government and for tracking formal requests, available at the government website, [www.gov.am](http://www.gov.am).

**References:**

National Assembly of the Republic of Armenia, Law of the Republic of Armenia on Freedom of Information, Article 9, Procedures of Information Inquiry Application and Discussion. <http://www.parliament.am/legislation.php?sel=show&ID=1390&lang=eng> (Accessed August 16, 2011).

**Yes:** A YES score is earned if there is a formal government mechanism/institution through which citizens can access government records available under freedom of information laws. This mechanism could be a government office (or offices within agencies or ministries) or an electronic request system.

**No:** A NO score is earned if there is no such formal mechanism or institution.

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### 13. Is the right to information requests effective?

63

13a. In practice, citizens receive responses to information requests within a reasonable time period.

100 | 75 | **50** | 25 | 0

**Comments:**

The Freedom of Information Center of Armenia (FOICA) reports that in 2011 the average time for answering information requests by citizens and by FOICA NGO itself was 10 to 13 days, although about 20 percent of requests received a mute refusal.

**References:**

Freedom of Information Center of Armenia, 2001, Implementation Practice of the Access to Information Right, 1st Quarter, 2011, Yerevan, Armenia. <http://www.foi.am/en/research/item/814/> (Accessed August 26, 2011).

Freedom of Information Center of Armenia, 2011, Implementation Practice of the Access to Information Right, 2nd Quarter, 2011. Yerevan,

Armenia. [http://www.foi.am/u\\_files/file/FOICA%20Black%20list%20&%20monitoring,%202nd%20%20%20%20quarter%20ENG.pdf](http://www.foi.am/u_files/file/FOICA%20Black%20list%20&%20monitoring,%202nd%20%20%20%20quarter%20ENG.pdf) (Accessed August 26, 2011).

**100:** Records are available on-line, or records can be obtained within two weeks. Records are uniformly available; there are no delays for politically sensitive information. Legitimate exceptions are allowed for sensitive national security-related information.

**75:**

**50:** Records take around one to two months to obtain. Some additional delays may be experienced. Politically-sensitive information may be withheld without sufficient justification.

**25:**

**0:** Records take more than four months to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records. National security exemptions may be abused to avoid disclosure of government information.

13b. In practice, citizens can use the information request mechanism at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

The Committee to Protect Freedom of Expression's monitoring of state websites shows that government websites are reasonably informative, so there is a fair amount of information available online.

Gevorg Hayrapetyan noted the government often replies to emails at no cost. In general, there is no cost for up to 10 pages of answers; above that the cost corresponds to the cost of photocopying. Traffic police charges small fees (less than \$10); there are fees for some cases of inquiries from State Cadastre or Archive if the response requires a significant workload.

**References:**

Committee to Protect Freedom of Expression, 2011, Accessibility to Information of Armenia's State Authorities. <http://khosq.am/en/2011/06/2173> (Accessed September 1, 2011).

Gevorg Hayrapetyan, lawyer at Freedom of Information Center NGO. Date of interview: August 29, 2011. Place of interview: Freedom of Information Center, Yerevan, Armenia.

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

13c. In practice, responses to information requests are of high quality.

100 | 75 | 50 | 25 | 0

**Comments:**

According to Gevorg Hayrapetyan, the quality varies, depending on who is requesting the information (requests by our NGO, for example, are more likely to receive a proper reply compared to an average citizen) and who is providing the reply. The problems are subjective; two replies from the same ministry can be of very different quality. One can see that it depends on the person who is writing that reply. If the reply is long and a lot of detailed information is requested, there can be omissions that are related to an attention issue. Sometimes the replying agency lacks sufficient knowledge on what is the right format of reply. Sometimes there are internal structural problems when the request for information is being addressed by several departments within the institution and some information is being lost in the process of several forwarding from one department to another. There are also cases when they avoid answering sensitive questions; however, these problems are not systematic. It differs from case to case.

**References:**

Gevorg Hayrapetyan, lawyer at Freedom of Information Center NGO. Date of interview: August 29, 2011. Place of interview: Freedom of Information Center, Yerevan, Armenia.

**100:** Responses to information requests typically address the requestor's questions in full and are not redacted or edited to remove sensitive information.

**75:**



**50:** Information requests are sometimes met with sufficient responses, but responses to information requests may be vague or overly general when sensitive information is sought.

**25:**

**0:** The government rarely or never replies to information requests with meaningful responses. If and when responses are issued, they are so overly general or heavily redacted as to render them useless.

13d. In practice, citizens can resolve appeals to information requests within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

According to Gevorg Hayrapetyan: If information is denied, a citizen can appeal through the court system (which will take about two months) or complain to the superior of the official who denied the information. The time frame varies depending on the case, but, yes, you could call it reasonable.

**References:**

Gevorg Hayrapetyan, lawyer at Freedom of Information Center NGO. Date of interview: August 29, 2011. Place of interview: Freedom of Information Center, Yerevan, Armenia.

**100:** The agency/entity acts on appeals quickly. While some backlog is expected and inevitable, appeals are acknowledged promptly and cases move steadily towards resolution.

**75:**

**50:** The agency/entity acts on appeals quickly but with some exceptions. Some appeals may not be acknowledged, and simple issues may take more than two months to resolve.

**25:**

**0:** The agency/entity does not resolve appeals in a timely fashion quickly. Appeals may be unacknowledged for many months and simple issues may take more than three months to resolve.

13e. In practice, citizens can resolve appeals to information requests at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

According to Gevorg Hayrapetyan, the appeal to the superior is free of charge; there is a small fee (about \$11) in case one wants to appeal through the court.

**References:**

Gevorg Hayrapetyan, lawyer at Freedom of Information Center NGO. Date of interview: August 29, 2011. Place of interview: Freedom of Information Center, Yerevan, Armenia.

**100:** In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge an access to information determination.

**75:**

**50:** In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge an access to information determination.

**25:**

**0:** The prohibitive cost of utilizing the access to information appeals mechanism prevents middle class citizens from challenging access to information determinations.

13f. In practice, the government gives reasons for denying an information request.

100 | 75 | **50** | 25 | 0

**Comments:**

According to Freedom of Information Center of Armenia reports, starting from 2011, 16 percent of information requests (27 of a total 170 written and electronic requests) received a mute denial (no reaction whatsoever); four (2 percent) were rejected. One rejection had a good reason, one rejection was illegal; no information on the other two rejections is provided in FOICA reports.

**References:**

Freedom of Information Center of Armenia, 2001, Implementation Practice of the Access to Information Right, 1st Quarter, 2011, Yerevan, Armenia. <http://www.foi.am/en/research/item/814/> (Accessed August 26, 2011).

Freedom of Information Center of Armenia, 2011, Implementation Practice of the Access to Information Right, 2nd Quarter, 2011, Yerevan, Armenia. [http://www.foi.am/u\\_files/file/FOICA%20Black%20list%20&%20monitoring,%202nd%20%20%20%20quarter%20ENG.pdf](http://www.foi.am/u_files/file/FOICA%20Black%20list%20&%20monitoring,%202nd%20%20%20%20quarter%20ENG.pdf) (Accessed August 26, 2011).

**100:** The government always discloses to the requestor the specific, formal reasons for denying information requests.

**75:**

**50:** The government usually discloses reasons for denying an information request to the requestor, with some exceptions. The reasons may be vague or difficult to obtain.

**25:**

**0:** The government does not regularly give reasons for denying an information request to the requestor.

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## Category 2. Elections

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### 2.1. <sup>62</sup>Voting and Party Formation

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## 14. Is there a legal framework guaranteeing the right to vote?

100

14a. In law, universal and equal adult suffrage is guaranteed to all citizens.

Yes

No

### Comments:

The Constitution's Article 30 states: "Eighteen-year-old citizens of the Republic of Armenia have the right to take part in the elections and referenda as well as the right to take part in the public administration and local self-governance through their representatives chosen directly and through the expression of free will. Citizens found to be incompetent by a court decision, duly sentenced to prison or serving the sentence, shall not be entitled to vote or be elected."

### Electoral Code:

Article 1.1: "In accordance with the Constitution of the Republic of Armenia, elections of the President as well as to the National Assembly and local self-government bodies of the Republic of Armenia shall be held by secret ballot on the basis of universal, equal, direct (with the exception of the elections of the mayor of Yerevan) suffrage."

Article 3.1: "Electors shall participate in elections on equal grounds."

Article 3.3: "Electors, irrespective of national origin, race, gender, language, religion, political or other views, social origin, property or other status, shall have the right to vote and to be elected."

### References:

Constitution of the Republic of Armenia, 2005. <http://www.parliament.am/parliament.php?id=constitution&lang=eng>. Article 30

National Assembly of the Republic of Armenia, 2011, Electoral Code of the Republic of Armenia, Article 1, "Fundamentals of elections", Article 3, "Equal suffrage". <http://www.parliament.am/legislation.php?sel=show&ID=4216&lang=rus> (Accessed August 18, 2011).

**Yes:** A YES score is earned if the right to vote is guaranteed to all citizens of the country (basic age limitations are allowed). A YES score can still be earned if voting procedures are, in practice, inconvenient or unfair.

**No:** A NO score is earned if suffrage is denied by law to any group of adult citizens for any reason. Citizen is defined broadly, to include all ethnicities, or anyone born in the country. A NO score is earned if homeless or impoverished people are legally prohibited from voting.

14b. In law, there is a legal framework requiring that elections be held at regular intervals.

Yes

No

### Comments:

Constitution Article 50: "The President of the Republic shall be elected by the citizens of the Republic of Armenia for a five year term of office".

Article 51: "The election of the President of the Republic shall be held 50 days prior to the expiration of his/her term of office in conformity with the procedure defined by the Constitution and the law."

Constitution Article 63: "The National Assembly is elected for a term of five years." Electoral Code Article 127.1: "Regular elections to the National Assembly shall be held not earlier than 40 and not later than 30 days before the cessation of powers thereof."

Constitution Article 107: "The community shall exercise its right of self-government through the bodies of local self-government – the Council of Aldermen and the Head of Community, who shall be elected for a four-year term of office in conformity with the procedure defined by law."

**References:**

Constitution of the Republic of Armenia, 2005. <http://www.parliament.am/parliament.php?id=constitution&lang=eng>. Articles 50, 51, 63, 107

National Assembly of the Republic of Armenia, 2011, Electoral Code of the Republic of Armenia, Chapter 19, Article 127. <http://www.parliament.am/legislation.php?sel=show&ID=4216&lang=rus> (Accessed August 18, 2011). .

**Yes:** A YES score is earned if there is a statutory or other framework enshrined in law that mandates elections at reasonable intervals.

**No:** A NO score is earned if no such framework exists.

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## 15. Can all citizens exercise their right to vote?

67

15a. In practice, all adult citizens can vote.

100 | 75 | 50 | 25 | 0

**Comments:**

The Organization for Security and Co-operation in Europe reports that its monitoring mission was not aware of any widespread inaccuracy in voter lists, but there were problems of overall transparency. Some 2.3 million voters registered prior to voting, which is roughly the adult population in Armenia. Voting was assessed positively at 95 percent of polling stations.

**References:**

Organization for Security and Co-operation in Europe, 2008, Republic of Armenia Presidential Election, February 19, 2008, Warsaw, OSCE/ODIHR Election Observation Mission Report. <http://www.osce.org/odihr/elections/armenia/32115> (Accessed August 19, 2011).

**100:** Voting is open to all citizens regardless of race, gender, prior political affiliations, physical disability, or other traditional barriers.

**75:**

**50:** Voting is often open to all citizens regardless of race, gender, prior political affiliations, physical disability, or other traditional barriers, with some exceptions.

**25:**

**0:** Voting is not available to some demographics through some form of official or unofficial pressure. Voting may be too dangerous, expensive, or difficult for many people.

15b. In practice, ballots are secret or equivalently protected.

100 | 75 | 50 | 25 | 0

**Comments:**

Organization for Security and Co-operation in Europe report: The secrecy of the ballot was fully respected in 87 percent and mostly respected in some 10 percent of polling stations visited. Ballot stuffing incidents and other irregularities were noticed but not widespread. Problems start at voter counting, which was assessed as bad or very bad in 16 percent of cases. Tabulation of the results was assessed negatively in five out of 41 cases. Irregularities during counting and tabulation included material arriving in unsealed packages, EC representatives leaving the tabulation station with election material and other incidents.

**References:**

Organization for Security and Co-operation in Europe, 2008, Republic of Armenia Presidential Election, February 19, 2008, Warsaw, OSCE/ODIHR Election Observation Mission Report. <http://www.osce.org/odihr/elections/armenia/32115> (Accessed August 19, 2011).

**100:** Ballots are secret, or there is a functional equivalent protection, in all cases.

**75:**

**50:** Ballots are secret, or there is a functional equivalent protection, in most cases. Some exceptions to this practice have occurred. Ballots may be subject to tampering during transport or counting.

**25:**

**0:** Ballot preferences are not secret. Ballots are routinely tampered with during transport and counting.

15c. In practice, elections are held according to a regular schedule.

100 | 75 | 50 | 25 | 0

**Comments:**

Parliamentary and presidential elections have been regularly held since 1990. In 1998, the president resigned; presidential elections took place outside of the standard time frame (once every five years), but in accordance with all election procedures envisioned by law.

**References:**

International Foundation for Electoral Systems, 2010, "IFES Election Guide: Armenia Elections." <http://www.electionguide.org/country-events.php?ID=12> (Accessed September 1, 2011).

U.S. Department of the State Bureau of European and Eurasian Affairs, 2011, "Background Note: Armenia." <http://www.state.gov/r/pa/ei/bgn/5275.htm> (Accessed August 24, 2011).

**100:** Elections are always held according to a regular schedule, or there is a formal democratic process for calling a new election, with deadlines for mandatory elections.

**75:**

**50:** Elections are normally held according to a regular schedule, but there have been recent exceptions. The formal process for calling a new election may be flawed or abused.

**25:**

**0:** Elections are called arbitrarily by the government. There is no functioning schedule or deadline for new elections.

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## 16. Are citizens able to participate equally in the political process?

55

16a. In law, all citizens have a right to form political parties.

Yes

No

### Comments:

Constitution Article 28: "Every citizen shall have a right to form political parties with other citizens and join such parties."

Law on Parties, Article 2: "The citizens of the Republic of Armenia exercise the right to join into parties freely, in accordance with their persuasions, through establishing parties on voluntary basis, on condition of adopting and recognizing their programs and charters, joining their membership, participating in their activity in conformity with program goals of parties and pursuant to the procedure defined by the charter, as well as freely leaving the party."

### References:

Constitution of the Republic of Armenia, 2005, Article 28. <http://www.parliament.am/parliament.php?id=constitution&lang=eng>

National Assembly of the Republic of Armenia, 2002, Law of the Republic of Armenia on Parties, Article 2, "The Right of Citizens to Join into Parties". <http://www.parliament.am/legislation.php?sel=show&ID=1326&lang=eng> (Accessed August 18, 2011).

**Yes:** A YES score is earned if citizens have the right to form political parties without interference from government. A YES score may still be earned if groups or individuals with a history of violence or terrorism (within last ten years) are banned from forming political parties. Non-discriminatory minimal criteria (e.g. minimum age) are also allowed.

**No:** A NO score is earned if there are any legal or regulatory restrictions or prohibitions barring any types of political parties from being formed.

16b. In law, all citizens have a right to run for political office.

Yes

No

### Comments:

Constitution Article 64: "Any person having attained the age of 25, having been a citizen of the Republic of Armenia for the preceding five years, having permanently resided in the Republic for the preceding five years, and having the right to vote, may be elected a Deputy."

Electoral Code Article 3.3: "Electors, irrespective of national origin, race, gender, language, religion, political or other views, social origin, property or other status, shall have the right to vote and to be elected."

**References:**

Constitution of the Republic of Armenia, 2005. <http://www.parliament.am/parliament.php?id=constitution&lang=eng>. Article 64

National Assembly of the Republic of Armenia, 2011, Electoral Code of the Republic of Armenia, Article 3, "Equal suffrage"; Article 105, "Right to be elected". <http://www.parliament.am/legislation.php?sel=show&ID=4216&lang=rus> (Accessed August 18, 2011).

**Yes:** A YES score is earned if all citizens (citizen is defined broadly, to include all ethnicities, or anyone born in the country) have the right under law to run for political office. A YES score may still be earned if individuals with a history of violence, terrorism, or criminality are banned from running for office.

**No:** A NO score is earned if there are any legal restrictions barring certain individuals or groups from running for political office.

16c. In practice, all citizens are able to form political parties.

100 | 75 | 50 | 25 | 0

**Comments:**

According to a U.S. human rights report, the registration requirements for political parties remain cumbersome.

A media review shows that no new political parties have been created in the study period (the last formation of a political party that made it into the news was in 2009).

**References:**

U.S. Department of the State, 2011, "2010 Human Rights Report: Armenia." <http://www.state.gov/g/drl/rls/hrrpt/2010/eur/154411.htm> (Accessed August 24, 2011).

PanArmenian.Net, 2009, "New political party registered in Armenia." <http://www.panarmenian.net/eng/politics/news/34484/> (Accessed September 27, 2011).

**100:** While there is no guarantee of electoral success, political parties can form freely without opposition.

**75:**

**50:** Some barriers to formation are present, such as burdensome registration requirements that may not be fairly applied. Some parties' political viewpoints may draw pressure from the government, such as surveillance or intimidation. Some political parties or organizations may have extra barriers to getting on a ballot.

**25:**

**0:** Some political parties are effectively barred from forming through some manner of official or unofficial pressure. This may include threats, arrest, or violence from competing parties or other groups.

16d. In practice, all citizens can run for political office.

100 | 75 | 50 | 25 | 0

**Comments:**

According to the data available from the Central Electoral Commission's website, there have been a total of 13 elections to local government bodies in Armenia during the study period; no other elections took place. In those elections, there have been 13 nonpartisan candidates, 15 candidates from the Armenian Republican Party (current party in power) and six other parties.

**References:**

Republic of Armenia Central Electoral Commission, "Հայաստանի Հանրապետության կենտրոնական ընտրական հանձնաժողով." <http://www.elections.am/> (Accessed September 27, 2011).

**100:** While there is no guarantee of electoral success, anyone can run for office under transparent and equitable guidelines. There is a formal process for access to the ballot which is fairly applied. The costs of running a campaign are reasonable and do not deter candidates from entering a race.

**75:**

**50:** Some barriers exist to getting on the ballot and bureaucratic or regulatory requirements for doing so may be unfairly applied. The costs of running a political campaign are significant and result in dissuading some candidates from running for office. A system of party lists may discourage or prevent independent candidates from running for office.

**25:**

**0:** Citizens can effectively be barred from the ballot through government abuse of official rules and/or unofficial pressure. The costs of running a campaign are extremely high and result in most average citizens being unable to run an effective campaign for office.

16e. In practice, an opposition party is represented in the legislature.

100 | 75 | 50 | 25 | 0

**Comments:**

According to Alexander Iskandaryan, within parliament, opposition parties were weak and unable to reach consensus on key issues. Out of 131 parliamentary seats, the two current opposition parties, Heritage and Dashnaksutyun, held just seven and 16 seats, respectively. As Dashnaksutyun only left the ruling coalition in 2009 as a protest against Armenia-Turkey rapprochement, the two parties found little common ground or opportunity for meaningful cooperation.

The U.S. Department of State report states that the RPA (Republican Party of Armenia, the party to which the current president belongs to) continued to dominate the three-party ruling coalition in the National Assembly, as well as the government's Cabinet.

**References:**

Alexander, Iskandaryan, 2011, Armenia, Freedom House. <http://www.freedomhouse.org/images/File/nit/2011/NIT-2011-Armenia.pdf> (Accessed August 6, 2011).

U.S. Department of the State, 2011, "2010 Human Rights Report: Armenia." <http://www.state.gov/g/drl/rls/hrrpt/2010/eur/154411.htm> (Accessed August 24, 2011).

**100:** The opposition party always has some influence on the proceedings of the legislature. The opposition party can introduce legislation or bring pending matters to a vote without the consent of the ruling party.

**75:**

**50:** The opposition party has influence on the proceeding of the legislature, but it is limited in scope. The opposition's ability to force votes or publicly debate certain topics may be limited.

**25:**



0: The opposition party has only token participation in the legislature's proceedings and cannot advance legislation or force a debate.

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## 2.2. Election Integrity

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### 17. In law, is there an election monitoring agency or set of election monitoring agencies/entities?

100

17a. In law, is there an election monitoring agency or set of election monitoring agencies/entities?

Yes

No

#### Comments:

Electoral Code Article 35.1: "Electoral commissions shall ensure the exercise and protection of electors' right of suffrage. In order to do so electoral commissions perform a range of tasks, including listening to complains and making decisions before, during and after elections."

The electoral commissions headed by the Central Electoral Commission existed in 2009 as well. To the best of my knowledge they were formally tasked with ensuring election integrity and hearing complaints. The task of reporting voter intimidation or fraud to the public is less clear. It is also not reflected in the new electoral code (enacted in May 2011).

I have chosen "Yes" for this year because the electoral committees are tasked with protection of electors' rights and are supposed to address complaints and issue decisions (see the quote above), which, I think, is the essence of election monitoring function.

#### References:

National Assembly of the Republic of Armenia, 2011, Electoral Code of the Republic of Armenia, Article 35, "Tasks of electoral commission". <http://www.parliament.am/legislation.php?sel=show&ID=4216&lang=rus> (Accessed August 18, 2011).

**Yes:** A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to ensure the integrity of the election process.

**No:** A NO score is earned if no domestic agency or set of domestic agencies/entities exists that monitors elections. A NO score is earned if elections are only monitored by an agency informally, such as poll booth monitoring by the police, only by international observers, or only by NGOs. A NO score is earned if the domestic election agency or set of domestic agencies simply facilitates the process of voting but is not empowered to report violations or abuses.

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### 18. Is the election monitoring agency effective?

45

18a. In law, the agency or set of agencies/entities is protected from political interference.

Yes

No

**Comments:**

Electoral Code Article 34.4: "Electoral commissions shall be independent from state and local self-government bodies in exercising their powers."

Article 39.2: "Deputies to the National Assembly, members of the Constitutional Court, judges, ministers and their deputies, Marzpets\* and their deputies, heads of communities and members, of councils of elders, military servicemen, officers of the National Security Service, the Police, Prosecutor's Office, Judicial Acts Compulsory Enforcement Service, Penitentiary Service, proxies, authorized representatives, observers, candidates, as well as persons having conviction for crimes provided for in Articles 149 to 154.6 of the Criminal Code of the Republic of Armenia may not be a member of an electoral commission."

According to Article 40, members of the Central Electoral Commission are appointed by the president for a term of six years upon recommendation from the Human Rights Defender of the Republic of Armenia, the chairperson of the Chamber of Advocates of the Republic of Armenia and the chairperson of the Court of Cassation.

\*Marz is the Armenian administrative-territorial unit. Marzpet is an appointed position, the regional governor.

**References:**

National Assembly of the Republic of Armenia, 2011, Electoral Code of the Republic of Armenia, Article 34, "The system of electoral commissions", Section 4; Article 39, "Fundamentals for establishing electoral commission", Section 2, Article 39, "Fundamentals for establishing electoral commission", Section 2, Article 40, "Procedure for the formation of the Central Electoral Commission". <http://www.parliament.am/legislation.php?sel=show&ID=4216&lang=rus> (Accessed August 18, 2011).

**Yes:** A YES score is earned only if the agency or set of agencies/entities has some formal organizational independence from the bodies contesting in the election. A YES score is still earned even if the entity is legally separate but in practice staffed by partisans.

**No:** A NO score is earned if the election monitoring agency or set of agencies/entities is legally tied to bodies contesting the election (i.e. an executive branch agency such as the Interior Ministry, or a committee of the legislature). A NO score is automatically earned if there is no domestic election monitoring agency.

18b. In practice, agency (or set of agencies/entities) appointments are made that support the independence of the agency.

100 | 75 | 50 | 25 | 0

**Comments:**

According to the Organization for Security and Co-operation in Europe report, the incumbent government, including Prime Minister Serzh Sargsyan, candidate of the governing Republican Party, and the outgoing president Robert Kocharian, had a considerable advantage in the number of appointees to election commission management posts, raising concern for the independence and impartiality of the election administration.

**References:**

Organization for Security and Co-operation in Europe, 2008, Republic of Armenia Presidential Election, February 19, 2008, Warsaw, OSCE/ODIHR Election Observation Mission Report. <http://www.osce.org/odihr/elections/armenia/32115> (Accessed August 19, 2011).

Central Electoral Commission: <http://www.elections.am/>

**100:** Appointments to the agency or set of agencies/entities are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. However, individuals appointed may have clear party loyalties.

**25:**

**0:** Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

18c. In practice, the agency or set of agencies/entities has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

The Council of Europe Group of States against Corruption (GRECO) report authors note that there is a lack of sufficient professional staff, at least as far as the monitoring of parties' and candidates' finances are concerned. (p 20)

**References:**

Council of Europe Group of States against Corruption (GREC), 2010, Evaluation Report on Armenia on Transparency of Party Funding Theme II, Strasbourg, Third Evaluation Round. [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3%282010%294\\_Armenia\\_Two\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3%282010%294_Armenia_Two_EN.pdf) (Accessed September 1, 2011).

Central Electoral Commission: <http://www.elections.am/>

**100:** The agency or set of agencies/entities has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency or set of agencies/entities has limited staff, or staff without necessary qualifications to fulfill its basic mandate.

**25:**

**0:** The agency or set of agencies/entities has no staff, or such a limited staff that is clearly unqualified to fulfill its mandate.

18d. In practice, the agency or set of agencies/entities makes timely, publicly available reports following an election cycle.

100 | 75 | 50 | 25 | 0

**Comments:**

The website of the Central Electoral Commission contains little information related to the most recent nationwide elections (presidential elections in 2008). There are lists of observer organizations, candidates' biographies, candidates' asset disclosure statements and statements regarding the results of the elections.  
<http://www.elections.am/Default.aspx>

**References:**

Naira, Mamikonyan, 2007, "The Candidates Declare Their Property," Aravot Daily newspaper. <http://www.armtown.com/news/am/arv/20071213/33477/> (Accessed September 26, 2011).

Central Electoral Commission: <http://www.elections.am/>

**100:** Reports are released to the public on a predictable schedule, without exceptions.

**75:**

**50:** Reports are released, but may be delayed, difficult to access, or otherwise limited.

**25:**

**0:** The agency or set of agencies/entities makes no public reports, issues reports which are effectively secret, or issues reports of no value.

18e. In practice, when necessary, the agency or set of agencies/entities imposes penalties on offenders.

100 | 75 | **50** | 25 | 0

**Comments:**

The Council of Europe Group of States against Corruption report addresses the question of penalties and, based on the information obtained from the Armenian authorities, concluded that sanctions, especially fines, are actually applied.

**References:**

Council of Europe Group of States against Corruption (GRECO), 2010, Evaluation Report on Armenia on Transparency of Party Funding Theme II, Strasbourg, Third Evaluation Round. [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3%282010%294\\_Armenia\\_Two\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3%282010%294_Armenia_Two_EN.pdf) (Accessed September 1, 2011).

Central Electoral Commission: <http://www.elections.am/>

**100:** When rules violations are discovered, the agency or set of agencies/entities is aggressive in penalizing offenders and/or in cooperating with other agencies in penalizing offenders.

**75:**

**50:** The agency or set of agencies/entities enforces rules, but is limited in its effectiveness. The agency may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other agencies, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency or set of agencies/entities does not effectively penalize offenders and/or cooperate with other agencies in penalizing offenders. The agency may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency may be partisan in its application of power.

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## 19. Are elections systems transparent and effective?

19a. In practice, there is a clear and transparent system of voter registration.

100 | 75 | 50 | 25 | 0

**Comments:**

According to the Organization for Security and Co-operation in Europe (OSCE) report, voter lists were made available online and at polling places. Citizens could check their registration through a telephone hotline and voter information was provided through media announcements. If citizens arrived at a polling station to find that their names were not on the voter list, they could apply to a court or to the police requesting a certificate enabling their registration. OSCE was concerned about the possibility of voting abroad and there was lack of transparency and timely information on the process of re-registering to enable voting where someone lives, but no information about major irregularities was obtained by OSCE.

**References:**

Organization for Security and Co-operation in Europe (OSCE), 2008, Republic of Armenia Presidential Election, February 19, 2008, Warsaw, OSCE/ODIHR Election Observation Mission Report. <http://www.osce.org/odihr/elections/armenia/32115> (Accessed August 19, 2011).

**100:** There is a transparent system of voter registration that provides voters with sufficient time to understand their rights, check the accuracy of their registration, and ensure that errors are corrected before they vote.

**75:**

**50:** There is a transparent voter registration system that provides voters with sufficient time to understand their rights, check the accuracy of their registration, and ensure that errors are corrected before they vote but there are some problems. Voters may have not access to registration lists with sufficient time to correct errors before voting or registration lists may at times be inaccessible.

**25:**

**0:** The system of voter registration is incomplete or does not exist. Government may routinely falsify registration lists to affect voting patterns and limit access to the polls. Double voting and "ghost" voting by non-existent voters is common.

19b. In law, election results can be contested through the judicial system.

Yes | No

**Comments:**

Electoral Code, Article 46, Section 6: "Decisions adopted on the basis of election results with regard to the results of elections to the National Assembly under the majoritarian electoral system may be appealed before the Constitutional Court of the Republic of Armenia. Decisions regarding election results of elections of local self-government bodies can be appealed before Administrative Court."

**References:**

National Assembly of the Republic of Armenia, 2011, Electoral Code of the Republic of Armenia, Article 46: "Appealing against decisions, actions and inaction of electoral commissions," Section 6. <http://www.parliament.am/legislation.php?sel=show&ID=4216&lang=rus> (Accessed August 18, 2011).

**Yes:** A YES score is earned if citizens or political parties can challenge allegedly fraudulent election results through the courts or other judicial mechanisms.

**No:** A NO score is earned if there is no legal right for citizens or political parties to challenge allegedly fraudulent election results in the courts or other judicial mechanisms.

19c. In practice, election results can be effectively appealed through the judicial system.

100 | 75 | 50 | 25 | 0

**Comments:**

The Organization for Security and Co-operation in Europe notes that during the most recent national elections (2008 presidential elections), few people made use of the newly established procedures to file appeals with the Administrative Code. The Constitutional Court heard two appeals against the election results and confirmed the decision of the Central Electoral Commission to declare Serzh Sargsyan the president.

**References:**

Organization for Security and Co-operation in Europe (OSCE), 2008, Republic of Armenia Presidential Election, February 19, 2008, Warsaw, OSCE/ODIHR Election Observation Mission Report. <http://www.osce.org/odihr/elections/armenia/32115> (Accessed August 19, 2011).

**100:** The electoral appeals mechanism takes cases from both candidates complaining of flaws in the electoral process as well as citizens bringing complaints related to denial of suffrage or registration errors. There is an expedited process for resolving such complaints to avoid delaying a timely announcement of electoral results.

**75:**

**50:** The electoral appeals mechanism takes complaints from both candidates and voters but may not always act on complaints promptly. The appeals mechanism may be abused at times by parties or candidates seeking to delay the announcement of electoral results.

**25:**

**0:** The electoral appeals mechanism rarely or never acts on complaints brought by candidates or citizens. Citizens may not be able to bring complaints related to denial of suffrage or voter registration errors.

19d. In practice, the military and security forces remain neutral during elections.

100 | 75 | 50 | 25 | 0

**Comments:**

According to the Organization for Security and Co-operation in Europe report, in some voting precincts there was an astonishingly high voter turnout (99 percent or 100 percent), which the authorities explained by the participation of military voters. In those areas, then-prime minister and now President Serzh Sargsyan received disproportional high amount of votes. OSCE makes a recommendation that the right of soldiers to vote or not to vote should be ensured in practice.

**References:**

Organization for Security and Co-operation in Europe (OSCE), 2008, Republic of Armenia Presidential Election, February 19, 2008, Warsaw, OSCE/ODIHR Election Observation Mission Report. <http://www.osce.org/odihr/elections/armenia/32115> (Accessed August 19, 2011).

**100:** The military, military officers, and other security forces refrain from overtly supporting or opposing political candidates or commenting on elections. The military or security forces refrain from physically interfering with political campaigns, rallies, or voting.

**75:**

**50:** The military, military officers, and security forces may be known to unofficially support or oppose particular candidates or parties. The military or security forces generally refrain from the use of force to support or oppose particular candidates or parties but there are exceptions.

**25:**

**0:** The military or other security forces are an active and explicit player in politics and overtly support or oppose particular candidates or parties. The military or security forces routinely exercise the use of force to support or oppose parties or candidates.

19e. In law, domestic and international election observers are allowed to monitor elections.

Yes

No

**Comments:**

Electoral Code Article 6.12: "Proxies, observers, mass media representatives, and, upon the assignment of the chairperson of the commission, members of a superior electoral commission, shall be entitled, as prescribed by this Code, to be present at the sittings of electoral commissions, as well as in polling stations during the entire voting process." Articles 29 and 31 provide detailed descriptions of observers' rights.

**References:**

National Assembly of the Republic of Armenia, 2011, Electoral Code of the Republic of Armenia, Article 6, "Publicity of Elections," Section 12, Article 29, "Right to observation mission" and Article 31, "Rights and obligations of an observer, mass media representative, and guarantees for activities thereof". <http://www.parliament.am/legislation.php?sel=show&ID=4216&lang=rus> (Accessed August 18, 2011).

**Yes:** A YES score is earned if domestic and international election observers are allowed to monitor the electoral process.

**No:** A NO score is earned if there are any legal or regulatory prohibitions on the monitoring of the electoral process by domestic or international election observers.

19f. In practice, election observers are able to effectively monitor elections.

100

75

50

25

0

**Comments:**

The Organization for Security and Co-operation in Europe reports that international observers visited more than 1,000 polling stations, facing restrictions in six cases. Domestic observers were present in 85 percent of stations; few restrictions were reported by them. International observers followed the count at 111 polling stations.

**References:**

Organization for Security and Co-operation in Europe (OSCE), 2008, Republic of Armenia Presidential Election, February 19,

**100:** Election observers have unfettered access to polling sites, counting stations, and voters themselves. The government does not interfere with the observers' activities.

**75:**

**50:** Election observers generally have access to polling sites, counting stations, and voters but encounter restrictions in certain areas. The government may impose burdensome regulatory or bureaucratic requirements on observers to discourage their involvement.

**25:**

**0:** Election observers' movements are significantly limited by the government and many polling and counting sites are restricted or barred from observers. The government imposes so many bureaucratic or regulatory burdens on the observers that their mission is rendered ineffective.

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## 68 2.3. Political Financing Transparency

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### 20. Are there regulations governing the financing of political parties?

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20a. In law, there are limits on individual donations to political parties.

Yes

No

#### Comments:

According to the Council of Europe Group of States against Corruption (GRECO) report: "There are no restrictions on membership fees, nor on the amount/size/periodicity of private donations outside the context of election campaigns." (page 7)

The most recent amendment to the Law on Parties on April 14, 2011, did not address this shortcoming.

These restrictions do not rule out individual donations. That's precisely the problem that the GRECO report pointed out.

#### References:

National Assembly of the Republic of Armenia, 2002, Law of the Republic of Armenia on Parties. <http://www.parliament.am/legislation.php?sel=show&ID=1326&lang=eng> (Accessed August 18, 2011).

Council of Europe Group of States against Corruption (GRECO), 2010, Evaluation Report on Armenia on Transparency of Party Funding Theme II, Strasbourg, Third Evaluation Round. [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3%282010%294\\_Armenia\\_Two\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3%282010%294_Armenia_Two_EN.pdf) (Accessed September 1, 2011).

**Yes:** A YES score is earned if there are any limits in size on individual contributions to political parties. A YES score is also earned if individual contributions are prohibited.



**No:** A NO score is earned if there are no limits on contributions from individuals. A NO score is also earned if limits are applied by the government on opposition parties in a discriminatory manner.

20b. In law, there are limits on corporate donations to political parties.

Yes

No

**Comments:**

According to the GRECO report: "There are no restrictions on membership fees, nor on the amount/size/periodicity of private donations outside the context of election campaigns." (page 7)

The most recent amendment to the Law on Parties on April 14, 2011, did not address this shortcoming.

The author of the 2009 report cites Article 25.2 of the Law on Political Parties as a support to his/her scoring. It reads:

It is not allowed to receive donations from:

- a) charitable and religious organizations, as well as organizations that have founded them.
- b) state and local self-governing bodies, except for financing provided by such bodies pursuant to Article 27 of this Law.
- c) institutions and organizations of state and local self-governing bodies, as well as organizations founded with the participation of state and local self-governing bodies.
- d) state administrative institutions.
- e) state non-commercial organizations.
- f) legal entities registered in six months prior to the date of making the donation.
- g) foreign states, foreign citizens and legal entities, as well as legal entities with foreign participation, if the share of the foreign participant in the statutory (share, stock) capital of the given legal entity is more than 25 percent.
- h) citizens of the Republic of Armenia, who have not attained the age of 18.
- i) international organizations and international public movements.
- j) anonymous persons.

These regulations do not limit corporate donations, except point (f), which partially restricts such donations. But if a legal entity (say a big local business) exists for more than six months, it can make donations to a political party. The GRECO report cited in the comments section points to that loophole in the Armenian legislation.

**References:**

National Assembly of the Republic of Armenia, 2002, Law of the Republic of Armenia on Parties. <http://www.parliament.am/legislation.php?sel=show&ID=1326&lang=eng> (Accessed August 18, 2011).

GRECO Group of States Against Corruption, 2010, Evaluation Report on Armenia on Transparency of Party Funding Theme II, Strasbourg, Third Evaluation Round. [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3%282010%294\\_Armenia\\_Two\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3%282010%294_Armenia_Two_EN.pdf) (Accessed September 1, 2011).

**Yes:** A YES score is earned if there are any limits in size on corporate contributions to political parties. A YES score is earned if corporate contributions are prohibited.

**No:** A NO score is earned if there are no limits on corporate contributions to political parties. A NO score is also earned if limits are applied by the government on opposition parties in a discriminatory manner.

20c. In law, there are limits on total political party expenditures.

Yes

No

**Comments:**

Electoral Code, Article 122, Section 4: "During the election campaign a political party can spend an amount not exceeding 100,000-fold of the minimum salary."

The new Electoral Code (adopted in May 2011) includes provisions for limiting political party expenditures during elections.

**References:**

National Assembly of the Republic of Armenia, 2011, Electoral Code of the Republic of Armenia, Article 122, Section 4, "Election fund of a candidate for deputy and of a political party."

<http://www.parliament.am/legislation.php?sel=show&ID=4216&lang=rus> (Accessed August 18, 2011).

**Yes:** A YES score is earned if there are any limits in size on political party expenditures during the course of an election.

**No:** A NO score is earned if there are no limits on political party expenditures during an election. A NO score is also earned if limits are applied by the government on opposition parties in a discriminatory manner.

20d. In law, there are requirements for the disclosure of donations to political parties.

Yes

No

**Comments:**

Law on Parties, Article 22, stipulates that the party is obliged "to publish, in printed media, a report on the use of property by specifying the sources of formation of such property."

Article 28, Section 4: "Not later than the 25th of March of the year following the reporting year, the party publishes its financial report in the means of mass media."

Section 6 of the same Article 28 states that "The source of a donation received by the party the value of which exceeds the hundred-folds of the minimum salary established by the law shall be specified in the financial report of the party."

Minister of Justice, Order No. 39, prescribes that the parties are to record in their financial statement information on donations of natural and legal persons, which includes information on the type of donation and amounts; and in cases where the donations exceed approximately \$270, the identity of donors as well as more detailed information on certain types of donations.

**References:**

National Assembly of the Republic of Armenia, 2002, Law of the Republic of Armenia on Parties, Article 22, "Obligations of the Party", Article 28, Section 4, Section 6, "Financial Reports of Parties".

. <http://www.parliament.am/legislation.php?sel=show&ID=1326&lang=eng> (Accessed August 18, 2011).

Republic of Armenia Minister of Justice, 2005, Order on the Approval of the Procedure for Submission of Political Party Financial Statement to the Ministry of Justice, No. 39, adopted March 31, 2005. <http://www.arlis.am/> (Accessed August 17, 2011).

**Yes:** A YES score is earned if there are any requirements mandating the disclosure of financial contributions to political parties.

**No:** A NO score is earned if there are no requirements mandating the disclosure of contributions to political parties, existing regulations do not require a donor's name or amount given, or the regulations allow for anonymous donations. Systems where only certain donation amounts are required to be made public (above a non-trivial amount) also earn a NO score.

20e. In law, there are requirements for the independent auditing of the finances and expenditures of political parties when financial irregularities are uncovered.

Yes

No

**Comments:**

There is nothing in the Law on Political Parties regarding auditing. The GRECO report also notes that there are no provisions for independent auditing. According to the authors of the report, the institutions that are in charge of monitoring party finance (Ministry of Justice, State Revenue Committee, Central Electoral Committee during elections) cannot be qualified as independent, as the first two are branches of the executive government and the last one is a composite body that includes representatives of political parties.

Law on Political Parties, Article 28, Section 5:

"The oversight of the financial activity of the party is performed in the procedure established by the legislation."

That's fairly vague. A further examination of the legislation that is supposed to define such oversight leads the authors of the GRECO report cited above to conclude that although there are a number of institutions that deal with party finance monitoring, none of them qualifies as independent. Based on the lack of an independent third-party institution in charge of party finance monitoring, I made a decision to score this as NO.

**References:**

National Assembly of the Republic of Armenia, 2002, Law of the Republic of Armenia on Parties. <http://www.parliament.am/legislation.php?sel=show&ID=1326&lang=eng> (Accessed August 18, 2011).

GRECO Group of States Against Corruption, 2010, Evaluation Report on Armenia on Transparency of Party Funding Theme II, Strasbourg, Third Evaluation Round. [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3%282010%294\\_Armenia\\_Two\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3%282010%294_Armenia_Two_EN.pdf) (Accessed September 1, 2011).

**Yes:** A YES score is earned if there is a legal or regulatory requirement for the independent auditing of party finances and expenditures when irregularities are uncovered. The auditing is performed by an impartial third-party.

**No:** A NO score is earned if there are no legal or regulatory requirements for the independent auditing of political parties' finances and expenditures when financial irregularities are uncovered. A NO score is also earned if such requirements exist but allow for parties to self-audit.

20f. In law, there is an agency or entity that monitors the financing of political parties.

Yes

No

**Comments:**

The Ministry of Justice receives the political parties annual financial reports, reviews them in order to check that the deadlines for submission were met and that no donations were received from illegal sources. If a party fails to submit a report or misses the deadline for submission, the Ministry of Justice forwards the file to the tax authorities for sanctions. If an illegal donation was received, the Ministry of Justice asks the party to return it to the donor or, in the case of an anonymous donation, it is transferred to the state budget. The Ministry of Justice does not itself check the accuracy of the reports. However, if it considers that a report is obviously fraudulent, it may refer the case to the prosecution authorities for further action. During elections, monitoring of party finances is done by the Central Electoral Committee through its special body of Oversight and Audit Service.

**References:**

National Assembly of the Republic of Armenia, 2002, Law of the Republic of Armenia on Parties, Article 22, "Obligations of the Party", Article 28, "Financial Reports of Parties". <http://www.parliament.am/legislation.php?sel=show&ID=1326&lang=eng> (Accessed August 18, 2011).

Republic of Armenia Minister of Justice, 2005, Order on the Approval of the Procedure for Submission of Political Party Financial Statement to the Ministry of Justice, No. 39, adopted March 31, 2005. <http://www.arlis.am/> (Accessed August 17, 2011).

**Yes:** A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to monitor and enforce laws and regulations around the financing of political parties. A YES score is earned even if the agency/entity is ineffective in practice.

**No:** A NO score is earned if there is no such agency or entity. A NO score is also earned if this monitoring is solely carried out by the media and non-governmental organizations.

## 21. Are there regulations governing the financing of individual political candidates?

100

21a. In law, there are limits on individual donations to political candidates.

Yes | No

### Comments:

Electoral Code

Article 88, Section 2: "The amount of personal contributions made to the election fund of a candidate must not exceed 5 000-fold of the minimum salary."

Article 122, Section 3: "Each natural person may make a voluntary contribution to the election funds of a candidate for deputy and a political party in the amount of up to 100-fold of the minimum salary."

Article 140, Section 4. "Any natural person may make a voluntary contribution to the election fund of a candidate respectively in the amount of up to:

(1) 50-fold of the minimum salary, in a community up to 10,000 electors.

(2) 100-fold of the minimum salary, in a community having more than 10,000 electors."

### References:

National Assembly of the Republic of Armenia, 2011, Electoral Code of the Republic of Armenia, Article 88, Section 2, "Election fund of a candidate for the President of the Republic," Article 122, Section 3, "Election fund of a candidate for deputy and of a political party," Article 140, Section 4, "Election fund of candidates for a head of community and a member of council of elders." <http://www.parliament.am/legislation.php?sel=show&ID=4216&lang=rus> (Accessed August 18, 2011).

**Yes:** A YES score is earned if there are any limits in size on individual contributions to political candidates. A YES score is also earned if individual contributions are prohibited.

**No:** A NO score is earned if there are no limits on contributions from individuals. A NO score is also earned if limits are applied by the government on opposition candidates in a discriminatory manner.

21b. In law, there are limits on corporate donations to individual political candidates.

Yes | No

**Comments:**

Corporate donations are not allowed during elections. The only types of donations allowed are specified in Article 25, Section 2, of the Electoral Code (Creation of election fund), and these are (1) personal funds of the candidate; (2) funds provided by the political party that has nominated the candidate; (3) voluntary contributions by persons having the right to vote. Amounts paid to the accounts of election funds by natural and legal persons not specified in this point, shall be transferred to the state budget.

**References:**

National Assembly of the Republic of Armenia, 2011, Electoral Code of the Republic of Armenia, Article 25, Section 2, "Creation of election fund." <http://www.parliament.am/legislation.php?sel=show&ID=4216&lang=rus> (Accessed August 18, 2011).

**Yes:** A YES score is earned if there are any limits in size on corporate contributions to individual political candidates. A YES score is earned if corporate contributions are prohibited.

**No:** A NO score is earned if there are no limits on corporate contributions to individual political candidates. A NO score is also earned if limits are applied by the government on opposition candidates in a discriminatory manner.

21c. In law, there are requirements for the disclosure of donations to individual political candidates.

Yes

No

**Comments:**

Electoral Code, Article 25, Section 7: "Banks where temporary special accounts are opened, shall submit an income statement of election funds of candidates and political parties to the relevant electoral commission with a periodicity of three days. The Oversight and Audit Service shall summarize such data, compile a brief statement and post it on the Internet website of the Central Electoral Commission."

**References:**

National Assembly of the Republic of Armenia, 2011, Electoral Code of the Republic of Armenia, Article 25, Section 7, "Creation of election fund." . <http://www.parliament.am/legislation.php?sel=show&ID=4216&lang=rus> (Accessed August 18, 2011).

**Yes:** A YES score is earned if there are any requirements mandating the disclosure of financial contributions to individual political candidates.

**No:** A NO score is earned if there are no requirements mandating the disclosure of contributions to individual political candidates, existing regulations do not require a donor's name or amount given, or the regulations allow for anonymous donations. Systems where only certain donation amounts are required to be made public (above a non-trivial amount) also earn a NO score.

21d. In law, there are requirements for the independent auditing of the campaign finances of individual political candidates when irregularities are uncovered.

Yes

No

**Comments:**

Article 28 of the Electoral Code stipulates that Central Electoral Commission creates an Oversight-Review Service that controls campaign funding. National Assembly fractions appoint professional auditors to the Oversight-Review Service for the period of elections.

**References:**

National Assembly of the Republic of Armenia, 2011, Electoral Code of the Republic of Armenia, Article 28, "Oversight-Review Service". <http://www.parliament.am/legislation.php?sel=show&ID=4216&lang=rus> (Accessed August 18, 2011).

**Yes:** A YES score is earned if there is a legal or regulatory requirement for the independent auditing of an individual candidate's campaign finances and expenditures when financial irregularities are uncovered. The auditing is performed by an impartial third-party.

**No:** A NO score is earned if there are no legal or regulatory requirements for the independent auditing of an individual candidate's campaign finances and expenditures when financial irregularities are uncovered. A NO score is also earned if such requirements exist but allow for candidates to self-audit.

21e. In law, there is an agency or entity that monitors the financing of individual political candidates' campaigns.

Yes

No

**Comments:**

The Central Electoral Commission with its respective subdivisions is in charge of monitoring the financing of individual political candidates.

Chapter 6 of the Electoral Code describes procedures of the Central Electoral Commission and respective subdivisions' monitoring financial aspects of elections. For example, from Article 27, "Declaration on contributions made to election funds and the use thereof," Section 1: "Candidates, political parties shall submit a declaration to the Oversight and Audit Service of the Central Electoral Commission on the contributions made to their election funds and the use thereof, on the 10th and 20th day after commencing the election campaign as prescribed by this Code, as well as not later than three days before the relevant time limits defined by this Code for summarizing election results."

**References:**

National Assembly of the Republic of Armenia, 2011, Electoral Code of the Republic of Armenia, Chapter 6, "Funding of Elections". <http://www.parliament.am/legislation.php?sel=show&ID=4216&lang=rus> (Accessed August 18, 2011).

**Yes:** A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to monitor and enforce laws and regulations around the financing of individual political candidates' campaigns. A YES score is earned even if the agency/entity is ineffective in practice.

**No:** A NO score is earned if there is no such agency or entity. A NO score is also earned if this monitoring is solely carried out by the media and non-governmental organizations.

## 22. Are the regulations governing the political financing of parties effective?

8

22a. In practice, the limits on individual donations to political parties are effective in regulating an individual's ability to financially support a political party.

100

75

50

25

0

**Comments:**

According to the GRECO report, "political parties in Armenia are heavily dependent on private donations. Some parties are

#### References:

GRECO Group of States Against Corruption, 2010 Evaluation Report on Armenia on Transparency of Party Funding Theme II, Strasbourg, Third Evaluation Round. [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3%282010%294\\_Armenia\\_Two\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3%282010%294_Armenia_Two_EN.pdf) (Accessed September 1, 2011).

**100:** Existing limits represent the full extent to which an individual can directly or indirectly financially support a political party. Limits are reasonably low enough in the context of the total costs of running a campaign.

**75:**

**50:** Existing limits generally represent the full extent to which an individual can directly or indirectly financially support a political party. However, exceptions and loopholes exist through which individuals can indirectly support political parties above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular party; unregulated loans to parties (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

**25:**

**0:** Existing limits are routinely bypassed or willfully ignored. The vast majority of individual contributions to a political party are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

22b. In practice, the limits on corporate donations to political parties are effective in regulating a company's ability to financially support a political party.

100 | 75 | 50 | 25 | 0

#### Comments:

According to the GRECO report, political parties in Armenia are heavily dependent on private donations, some of whom are wealthy owners of big businesses. Private and corporate are barely distinguishable in Armenia, so what was said about individual donations is very much applicable to corporate donations as well.

#### References:

GRECO Group of States Against Corruption, 2010, Evaluation Report on Armenia on Transparency of Party Funding Theme II, Strasbourg, Third Evaluation Round. [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3%282010%294\\_Armenia\\_Two\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3%282010%294_Armenia_Two_EN.pdf) (Accessed September 1, 2011).

**100:** Existing limits represent the full extent to which a company can directly or indirectly financially support a political party. Limits are reasonably low enough in the context of the total costs of running a campaign to be meaningful.

**75:**

**50:** Existing limits generally represent the full extent to which a company can directly or indirectly financially support a political party. However, exceptions and loopholes exist through which companies can indirectly support political parties above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular party; unregulated loans to parties (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

**25:**

**0:** Existing limits are routinely bypassed or willfully ignored. The majority of corporate contributions to political parties are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

22c. In practice, the limits on total party expenditures are effective in regulating a political party's ability to fund campaigns or politically-related activities.

100 | 75 | 50 | 25 | 0

**Comments:**

According to the GRECO report, unrealistic expenditure limits make it virtually impossible for parties and candidates to carry out an effective campaign by using (and reporting) only funds that fall within the expenditure limits set by the law. Too low expenditure limits actually have an adverse effect, encouraging under-reporting and use of the loopholes.

**References:**

GRECO Group of States Against Corruption, 2010, Evaluation Report on Armenia on Transparency of Party Funding Theme II, Strasbourg, Third Evaluation Round. [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3%282010%294\\_Armenia\\_Two\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3%282010%294_Armenia_Two_EN.pdf) (Accessed September 1, 2011).

**100:** Existing limits represent the full extent to which political parties are able to finance their activities. Limits are reasonably low enough in the context of the total costs of running a party to be meaningful.

**75:**

**50:** Existing limits generally represent the full extent to which a political party can finance its activities. However, exceptions and loopholes exist through which parties can generate revenue or finance their activities beyond the scope of existing regulations. Such loopholes could include taking loans that are outside of the scope of regulations covering direct donations; links to revenue-generating business activities that are beyond the scope of electoral or campaign-related regulations; or accepting in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a party.

**25:**

**0:** Existing limits are routinely bypassed or willfully ignored. The majority of expenditures are made outside of the formal limitation system. Limits are so high that they are meaningless in the context of the overall costs of running a party.

22d. In practice, when necessary, an agency or entity monitoring the financing of political parties independently initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

According to the GRECO report: The Ministry of Justice receives the political parties' annual financial reports, but does not check them substantially. It can forward them to Tax Service or to the prosecution for further investigations. During elections, finances of political parties are monitored by the Oversight and Audit Service of the Central Electoral Commission. Thus, there is no single agency, which greatly impedes monitoring of political party financing and the process of investigation. The entities involved do not qualify as impartial.



**References:**

GRECO Group of States Against Corruption, 2010, Evaluation Report on Armenia on Transparency of Party Funding Theme II, Strasbourg, Third Evaluation Round. [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3%282010%294\\_Armenia\\_Two\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3%282010%294_Armenia_Two_EN.pdf) (Accessed September 1, 2011).

**100:** The agency or entity aggressively starts investigations into allegations of wrong doing with respect to the financing of political parties, or cooperates well with other agencies that do. The agency is fair in its application of this power.

**75:**

**50:** The agency or entity will start investigations, but often relies on external pressure to set priorities, has limited effectiveness when investigating, or is reluctant to cooperate with other agencies in politically sensitive cases. The agency, though limited in effectiveness, is still fair in its application of power.

**25:**

**0:** The agency or entity rarely investigates on its own, is uncooperative with other agencies, or the agency or entity is partisan in its application of this power.

22e. In practice, when necessary, an agency or entity monitoring the financing of political parties imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

**Comments:**

The Ministry of Justice has no power to impose penalties; it forwards the annual finance reports to either State Revenue Committee or the prosecution. The GRECO report authors verify that there have been some penalties imposed on parties in the past.

**References:**

GRECO Group of States Against Corruption, 2010, Evaluation Report on Armenia on Transparency of Party Funding Theme II, Strasbourg, Third Evaluation Round. [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3%282010%294\\_Armenia\\_Two\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3%282010%294_Armenia_Two_EN.pdf) (Accessed September 1, 2011).

**100:** When rules violations are discovered, the agency or entity is aggressive in penalizing offenders or cooperates well with other agencies that impose penalties.

**75:**

**50:** The agency or entity enforces rules, but is limited in its effectiveness. The agency or entity may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other agencies, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency or entity does not effectively penalize offenders. The agency or entity may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency or entity may be partisan in its application of power and may refuse cooperation with other agencies.

22f. In practice, contributions to political parties are audited.

**Comments:**

According to the GRECO report: The Ministry of Justice receives the political parties' annual financial reports and verifies whether they were submitted within the specified deadlines and whether any illegal donations, such as from anonymous or foreign sources, were received. It then forwards the list of non-compliant parties to the State Revenue Committee, which can carry out investigations, impose fines or apply to the administrative courts for recovery of the fines in case of non-payment by a party. Strictly speaking, this process is not auditing, but it's a check if formalities in reporting are being followed.

**References:**

GRECO Group of States Against Corruption, 2010, Evaluation Report on Armenia on Transparency of Party Funding Theme II, Strasbourg, Third Evaluation Round. [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3%282010%294\\_Armenia\\_Two\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3%282010%294_Armenia_Two_EN.pdf) (Accessed September 1, 2011).

**100:** Political party finances are regularly audited using generally accepted auditing practices. The auditing may be regular and comprehensive or only initiated after an initial review reveals irregularities. Auditing includes the auditing of nominally independent financial organizations that act as financial extensions of the party.

**75:**

**50:** Political party finances (as defined) are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed contributions. Contributions to the political party may be sufficiently audited, but the auditing of nominally independent extensions of the party may not be.

**25:**

**0:** Party finances are not audited, or the audits performed have no value in tracking contributions. Audits may be performed by entities known to be partisan or biased in their practices.

## 23. Are the regulations governing the political financing of individual candidates effective?

10

23a. In practice, the limits on individual donations to political candidates are effective in regulating an individual's ability to financially support a particular candidate.

**Comments:**

According to the OSCE report, during the most recent national elections (2008 presidential elections), a loophole existed in the legislation (which has since been amended) that allowed "goods in kind"-type contributions: Any goods or services could be provided to a candidate free of charge.

**References:**

Organization for Security and Co-operation in Europe (OSCE), 2008, Republic of Armenia Presidential Election, February 19, 2008, Warsaw, OSCE/ODIHR Election Observation Mission Report. <http://www.osce.org/odihr/elections/armenia/32115> (Accessed August 19, 2011).

**100:** Existing limits represent the full extent to which an individual can directly or indirectly financially support a political candidate. Limits are reasonably low enough in the context of the total costs of running a campaign.

**75:**

**50:** Existing limits generally represent the full extent to which an individual can directly or indirectly financially support a particular candidate. However, exceptions and loopholes exist through which individuals can indirectly support particular political candidates above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular candidate; unregulated loans to candidates (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

**25:**

**0:** Existing limits are routinely bypassed or willfully ignored. The vast majority of individual contributions to a particular political candidate are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

23b. In practice, the limits on corporate donations to individual candidates are effective in regulating a company's ability to financially support a candidate.

100 | 75 | 50 | **25** | 0

**Comments:**

According to the OSCE report, during the most recent national elections (2008 presidential elections), a loophole existed in the legislation (which has since been amended) that allowed "goods in kind"-type contributions: Any goods or services could be provided to a candidate free of charge.

**References:**

Organization for Security and Co-operation in Europe (OSCE), 2008, Republic of Armenia Presidential Election, February 19, 2008, Warsaw, OSCE/ODIHR Election Observation Mission Report. <http://www.osce.org/odihr/elections/armenia/32115> (Accessed August 19, 2011).

**100:** Existing limits represent the full extent to which a company can directly or indirectly financially support an individual candidate. Limits are reasonably low enough in the context of the total costs of running a campaign to be meaningful.

**75:**

**50:** Existing limits generally represent the full extent to which a company can directly or indirectly financially support an individual candidate. However, exceptions and loopholes exist through which companies can indirectly support individual candidates above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular candidate; unregulated loans to candidates (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

**25:**

**0:** Existing limits are routinely bypassed or willfully ignored. The majority of corporate contributions to individual candidates are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

23c. In practice, when necessary, an agency or entity monitoring the financing of individual candidates' campaigns independently initiates investigations.

**Comments:**

According to the GRECO report: While both the Oversight and Audit Service and the Central Electoral Commission may request additional information from the parties and candidates and are vested with investigative powers, including access to information from other institutions (e.g., banks), the evidence collected by the assessment team clearly indicates that these powers are hardly used in practice and that no cross-checks are performed to verify the accuracy of the data contained in the declarations.

**References:**

GRECO Group of States Against Corruption, 2010, Evaluation Report on Armenia on Transparency of Party Funding Theme II, Strasbourg, Third Evaluation Round. [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3%282010%294\\_Armenia\\_Two\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3%282010%294_Armenia_Two_EN.pdf) (Accessed September 1, 2011).

**100:** The agency or entity aggressively starts investigations into allegations of wrong doing with respect to the financing of individual candidates' campaigns, or cooperates well with other agencies that do. The agency is fair in its application of this power.

**75:**

**50:** The agency or entity will start investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The agency, though limited in effectiveness, is still fair in its application of power. It may be reluctant to cooperate with other investigatory agencies.

**25:**

**0:** The agency or entity rarely investigates on its own, or the agency or entity is partisan in its application of this power. It does not cooperate well with other investigatory agencies.

23d. In practice, when necessary, an agency or entity monitoring the financing of individual candidates' campaigns imposes penalties on offenders.

**Comments:**

According to the GRECO report: The Central Electoral Commission (in charge of finance monitoring during elections) and the Ministry of Justice (in charge of finance monitoring at all other times) have no competence to impose administrative sanctions. The GRECO assessment is that these structures are not effective in penalizing offenders.

**References:**

GRECO Group of States Against Corruption, 2010, Evaluation Report on Armenia on Transparency of party funding Theme II. Strasbourg. Third Evaluation Round. [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3%282010%294\\_Armenia\\_Two\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3%282010%294_Armenia_Two_EN.pdf) (Accessed September 1, 2011).

**100:** When rules violations are discovered, the agency or entity is aggressive in penalizing offenders or in cooperating with other agencies that do.

**75:**

**50:** The agency or entity enforces rules, but is limited in its effectiveness. The agency or entity may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other agencies, or occasionally unable to enforce its

judgments.

**25:**

**0:** The agency or entity does not effectively penalize offenders. The agency or entity may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency or entity may be partisan in its application of power or may refuse to cooperate with other agencies.

23e. In practice, the finances of individual candidates' campaigns are audited.

100 | 75 | 50 | 25 | 0

**Comments:**

According to the GRECO report: The Central Electoral Commission is responsible for the oversight of election campaign funding. It checks through its Oversight and Audit Service, a temporary body established during election periods, the declarations on pre-election funds submitted by candidates, parties and party alliances participating in elections for the president of the republic and for the National Assembly.

The problem with the Oversight and Audit Service is that of the general problem of the Central Electoral Commission, which, according to the OSCE report on the latest elections in Armenia, was under an undue influence from the executive government. This overall lack of impartiality casts a shadow over auditing practices as well.

**References:**

GRECO Group of States Against Corruption, 2010, Evaluation Report on Armenia on Transparency of Party Funding Theme II, Strasbourg, Third Evaluation Round. [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3%282010%294\\_Armenia\\_Two\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3%282010%294_Armenia_Two_EN.pdf) (Accessed September 1, 2011).

Organization for Security and Co-operation in Europe (OSCE), 2008, Republic of Armenia Presidential Election, February 19, 2008, Warsaw, OSCE/ODIHR Election Observation Mission Report. <http://www.osce.org/odihr/elections/armenia/32115> (Accessed August 19, 2011).

**100:** The finances of individual candidates' campaigns are regularly audited using generally accepted auditing practices. The auditing may be regular and comprehensive or only initiated after an initial review reveals irregularities.

**75:**

**50:** The finances of individual candidates' campaigns are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed contributions.

**25:**

**0:** The finances of individual candidates' campaigns are not audited, or the audits performed have no value in tracking contributions. Audits may be performed by entities known to be partisan or biased in their practices.

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## 24. Can citizens access records related to the financing of political parties?

63

24a. In practice, political parties disclose data relating to financial support and expenditures within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

According to Gevorg Hayrapetyan, political parties disclose their financial information once a year, or upon request.

**References:**

Gevorg Hayrapetyan, lawyer at Freedom of Information Center NGO. Date of interview: August 29, 2011. Place of interview: Freedom of Information Center, Yerevan, Armenia.

**100:** Political parties disclose their sources of funding and expenditures at least every quarter.

**75:**

**50:** Political parties disclose their sources of funding and expenditures only one or two times per year. Delays may occur when sensitive political information is involved.

**25:**

**0:** Political parties never publish their sources of funding or expenditures or publish that information only rarely with more than a year in between publication. Politically sensitive information is regular withheld from public disclosure.

24b. In practice, citizens can access the financial records of political parties within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

According to Gevorg Hayrapetyan: When we requested financial information from all the major political parties in Armenia, most of them were reasonably fast in providing information, but not all of them replied.

**References:**

Gevorg Hayrapetyan, lawyer at Freedom of Information Center NGO. Date of interview: August 29, 2011. Place of interview: Freedom of Information Center, Yerevan, Armenia.

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take two to four weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. There may be persistent delays in obtaining politically sensitive records.

24c. In practice, citizens can access the financial records of political parties at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

According to Gevorg Hayrapetyan: The parties provided the information free of charge.

**References:**

Gevorg Hayrapetyan, lawyer at Freedom of Information Center NGO. Date of interview: August 29, 2011. Place of interview: Freedom of Information Center, Yerevan, Armenia.

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

24d. In practice, the publicly available records of political parties' finances are of high quality.

100 | 75 | 50 | 25 | 0

**Comments:**

According to Transparency International's monitoring results, most parties did not specify categories of expenditures; several items were often presented jointly. Overall the quality of the finance reports made it difficult to make clear assessments.

According to Gevorg Hayrapetyan: "The quality was reasonable. Those who answered our request provided us with the information we needed."

**References:**

Transparency International Anti-Corruption Center, 2009, Monitoring of Campaign Finance of the 2007 and 2008 Elections in Armenia, Yerevan, Armenia. [http://transparency.am/upl\\_pubs/book\\_eng\\_web.pdf](http://transparency.am/upl_pubs/book_eng_web.pdf) (Accessed August 24, 2001).

Gevorg Hayrapetyan, lawyer at Freedom of Information Center NGO. Date of interview: August 29, 2011. Place of interview: Freedom of Information Center, Yerevan, Armenia.

**100:** Publicly available records of political parties' finances are complete and detailed, itemizing all significant sources of income and expenditures.

**75:**

**50:** Publicly available records of political parties' finances are available but are often lacking in important details, are overly general, or are otherwise incomplete.

**25:**

**0:** Publicly available records of political parties' finances, when available, are so incomplete or overly general as to render them useless in understanding a party's sources of income and its expenditures.

## 25. Can citizens access records related to the financing of individual candidates' campaigns?

31

25a. In practice, individual political candidates disclose data relating to financial support and expenditures within a reasonable time period.

100 | 75 | 50 | 25 | 0

### Comments:

According to the Electoral Code, Article 25, Section 7, this information should be posted on the website of the Central Electoral Commission. The electoral code is valid as of May 26, 2011. There have been some local government elections since then, but no information is found on the CEC website. No information is posted regarding earlier elections.

Transparency International reports that this information was available on the CEC website during and in the aftermath of the 2007 parliamentary elections and 2008 presidential elections. Thus, the data in principle can be requested by citizens and is available during national elections, but there is no regularity in its availability.

### References:

Republic of Armenia Central Electoral Commission, "Հայաստանի Հանրապետության կենտրոնական ընտրական հանձնաժողով." <http://www.elections.am/> (Accessed September 27, 2011).

National Assembly of the Republic of Armenia, 2011, Electoral Code of the Republic of Armenia. <http://www.parliament.am/legislation.php?sel=show&ID=4216&lang=rus> (Accessed August 18, 2011).

Transparency International Anti-Corruption Center, 2009, Monitoring of Campaign Finance of the 2007 and 2008 Elections in Armenia, Yerevan, Armenia. [http://transparency.am/upl\\_pubs/book\\_eng\\_web.pdf](http://transparency.am/upl_pubs/book_eng_web.pdf) (Accessed August 24, 2011).

**100:** Individual candidates disclose their sources of funding and expenditures at least every quarter.

**75:**

**50:** Individual candidates disclose their sources of funding and expenditures only one or two times per year. Delays may occur when sensitive political information is involved.

**25:**

**0:** Individual candidates never publish their sources of funding or expenditures or publish that information only rarely with more than a year in between publication. Politically sensitive information is regular withheld from public disclosure.

25b. In practice, citizens can access the financial records of individual candidates (their campaign revenues and expenditures) within a reasonable time period.

100 | 75 | 50 | 25 | 0



**Comments:**

During national elections (2007 parliamentary and 2008 presidential), the information was available on the Central Electoral Commission (CEC) website, as reported by Transparency International. The website as of now contains no financial information, for past or the most recent local government elections (August, September), nor for upcoming local government elections (November), although there is a legal provision to have such information posted. The information can be requested and, according to the Freedom of Information Center study, an average response time is 10 to 15 days (though there are no specific statistics for CEC).

**References:**

Republic of Armenia Central Electoral Commission, “Հայաստանի Հանրապետության կենտրոնական ընտրական հանձնաժողով.” <http://www.elections.am/> (Accessed September 27, 2011).

Transparency International Anti-Corruption Center, 2009, Monitoring of Campaign Finance of the 2007 and 2008 Elections in Armenia, Yerevan, Armenia. [http://transparency.am/upl\\_pubs/book\\_eng\\_web.pdf](http://transparency.am/upl_pubs/book_eng_web.pdf) (Accessed August 24, 2011).

Freedom of Information Center of Armenia, 2001, Implementation Practice of the Access to Information Right, 1st Quarter, 2011, Yerevan, Armenia. <http://www.foi.am/en/research/item/814/> (Accessed August 26, 2011).

Freedom of Information Center of Armenia, 2011, Implementation Practice of the Access to Information Right, 2nd Quarter, 2011, Yerevan, Armenia. [http://www.foi.am/u\\_files/file/FOICA%20Black%20list%20&%20monitoring,%202nd%20%20%20%20quarter%20ENG.pdf](http://www.foi.am/u_files/file/FOICA%20Black%20list%20&%20monitoring,%202nd%20%20%20%20quarter%20ENG.pdf) (Accessed August 26, 2011).

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take two to four weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. There may be persistent delays in obtaining politically sensitive records.

25c. In practice, citizens can access the financial records of individual candidates (their campaign revenues and expenditures) at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

According to the Transparency International report, the financial data on 2007 parliamentary and 2008 presidential elections was available on the Central Electoral Commission's website. At the moment, however, the website contains no financial information on any elections, including most recent and upcoming local government elections. If requested on paper, it will include cost of photocopying.

**References:**

Republic of Armenia Central Electoral Commission, “Հայաստանի Հանրապետության կենտրոնական ընտրական հանձնաժողով.” <http://www.elections.am/> (Accessed September 27, 2011).

Transparency International Anti-Corruption Center, 2009, Monitoring of Campaign Finance of the 2007 and 2008 Elections in Armenia, Yerevan, Armenia. [http://transparency.am/upl\\_pubs/book\\_eng\\_web.pdf](http://transparency.am/upl_pubs/book_eng_web.pdf) (Accessed August 24, 2011).

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

25d. In practice, the publicly available records of political candidates' campaign finances are of high quality.

100 | 75 | 50 | **25** | 0

**Comments:**

Transparency International reports that comprehensive analysis was impossible due to vague formulations of titles of expenditure items, joined declarations of items and some other problems in financial declarations of individual candidates.

**References:**

Transparency International Anti-Corruption Center, 2009, Monitoring of Campaign Finance of the 2007 and 2008 Elections in Armenia, Yerevan, Armenia. [http://transparency.am/upl\\_pubs/book\\_eng\\_web.pdf](http://transparency.am/upl_pubs/book_eng_web.pdf) (Accessed August 24, 2001).

**100:** Publicly available records of political candidates' campaign finances are complete and detailed, itemizing all significant sources of income and expenditures.

**75:**

**50:** Publicly available records of political candidates' campaign finances are available but are often lacking in important details, are overly general, or are otherwise incomplete.

**25:**

**0:** Publicly available records of political candidates' campaign finances, when available, are so incomplete or overly general as to render them useless in understanding a candidate's sources of income and expenditures.

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### Category 3. Government Conflicts of Interest Safeguards & Checks and Balances

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#### 3.1. <sup>59</sup>Conflicts of Interest Safeguards & Checks and Balances: Executive Branch

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26. In law, can citizens sue the government for infringement of their civil rights?

26a. In law, can citizens sue the government for infringement of their civil rights?

Yes

No

**Comments:**

Administrative Procedure Code, Article 3: "Any physical and judicial person can bring a case to the Administrative Court. These include cases to challenge administrative and normative acts, actions, and failures to act by state and local self-government bodies and their officials that (1) infringe the rights, freedoms, or other lawful interests of an individual or legal entity, (2) illegally impose obligations on an individual or legal entity, or (3) illegally subject an individual or legal entity to administrative liability."

**References:**

National Assembly of the Republic of Armenia, 2007, Administrative Procedure Code of the Republic of Armenia, Article 3. <http://www.parliament.am/legislation.php?sel=show&ID=3140&lang=arm> (Accessed August 18, 2011).

National Assembly of the Republic of Armenia, 1998, Civil Procedure Code of the Republic of Armenia. <http://www.parliament.am/legislation.php?sel=show&ID=1918&lang=eng> (Accessed August 18, 2011).

**Yes:** A YES score is earned if all citizens (citizen is defined broadly, to include all ethnicities, or anyone born in the country) can receive compensation or redress through the courts for civil rights violations committed by the government, such as failure to follow due process of law when detaining suspected criminals.

**No:** A NO score is earned if any group of citizens is excluded from the right to sue the government, or no such mechanism exists.

## 27. Can the chief executive be held accountable for his/her actions?

44

27a. In practice, the chief executive gives reasons for his/her policy decisions.

100

75

50

25

0

**Comments:**

The prime minister has a blog (<http://tigransargsyan.livejournal.com/>) where he answers some questions and (supposedly) reads complaints. The media report above states that there are many questions that remain unanswered.

The prime minister also regularly appears in the parliament (<http://www.gov.am/am/interviews/>).

However, since both the overall level of journalism in Armenia is low (IREX 2011) and the parliamentary institution is weak (Freedom House report), it is hardly justifiable to talk about taking critical questions or substantial policy explanations.

**References:**

Anna Israyelyan, 2010, "Վարչապետի բլոգը մեռնո՞ւմ է -,"

Aravot.am. <http://www.aravot.am/am/articles/politics/74904/view> (Accessed September 29, 2011). Publication date: February 5, 2010

Translation: "The Blog of the Prime-Minister Dead?"

IREX, 2011, Armenia Media Sustainability Index (MSI), International Research and Exchanges Board. <http://www.irex.org/resource/armenia-media-sustainability-index-msi> (Accessed August 6, 2011).

Alexander Iskandaryan, 2011, Armenia, Freedom House. <http://www.freedomhouse.org/images/File/nit/2011/NIT-2011-Armenia.pdf> (Accessed August 6, 2011).

**100:** The chief executive and/or cabinet ministers give formal explanations of all policy matters. The chief executive regularly takes critical questions from journalists or an opposition party, usually at least once a month. There is no censoring of such sessions.

**75:**

**50:** The chief executive and/or cabinet ministers give explanations of policy, but not always in a timely or complete way. The chief executive occasionally takes critical questions from journalists or an opposition party, but not in a regular or formalized process. Particular issues of political sensitivity may be censored by government broadcasters.

**25:**

**0:** The chief executive and/or cabinet ministers do not give substantial justifications for policy. Public appearances by the chief executive offer no exposure to critical questions. The government and government-run media routinely censor such sessions.

27b. In law, the judiciary can review the actions of the executive.

Yes

No

**Comments:**

Judicial Code, Chapter 6, states the basic principles of the Administrative Court.

Administrative Procedure Code, Article 3, defines the areas of the Administrative Court jurisdiction, which includes a possibility to challenge administrative and normative acts, actions, and failures to act by state and local self-government bodies and their officials.

Civil Procedure Code, Article 5, states that everyone is equal before the law and the court.

**References:**

National Assembly of the Republic of Armenia, 2007, Judicial Code of the Republic of Armenia, Chapter 6. <http://www.parliament.am/legislation.php?sel=show&ID=2966&lang=eng> (Accessed August 18, 2011).

National Assembly of the Republic of Armenia, 2007, Administrative Procedure Code of the Republic of Armenia, Article 3. <http://www.parliament.am/legislation.php?sel=show&ID=3140&lang=arm> (Accessed August 18, 2011).

National Assembly of the Republic of Armenia, 1998, Civil Procedure Code of the Republic of Armenia. <http://www.parliament.am/legislation.php?sel=show&ID=1918&lang=eng> (Accessed August 18, 2011).

**Yes:** A YES score is earned if there is a formal process by which the judiciary can pass judgments on the legality or constitutionality of actions taken by the executive.

**No:** A NO score is earned if no such mechanism exists. A NO score is earned if judicial review is vaguely established in law or regulation without formal procedures. A NO score is earned if general exemptions exist with respect to executive actions that are reviewable (a national security exemption, for example).

27c. In practice, when necessary, the judiciary reviews the actions of the executive.

100 | 75 | 50 | 25 | 0

**Comments:**

According to Armen Mazmanyany, the judiciary reviews the actions of the executive when it has to (for example, an NGO activist filed a complain), but it's not like a day-to-day process. The judiciary is not active.

The Freedom House and Bertelsmann studies (see above) both assess Armenian judiciary as heavily dependent on the executive, thus it is hard to expect the judiciary to pass nonpartisan judgments on executive abuses.

**References:**

Freedom House, "Armenia 2011, Freedom of the Press." <http://www.freedomhouse.org/> (Accessed September 19, 2011).

Bertelsmann Stiftung, 2009, BTI 2010 — Armenia Country Report, Gütersloh: Bertelsmann Stiftung. <http://www.bertelsmann-transformation-index.de/148.0.html?&L=1> (Accessed August 22, 2011).

Armen Mazmanyany, 2011, "Functioning of judiciary in Armenia," assistant professor, programs director, Legal Resource Center, American University of Armenia. Place of interview: American University of Armenia, Yerevan, Armenia. Date of interview: September 30, 2011.

**100:** When constitutional or legal questions or possible violations are raised, the judiciary is aggressive in reviewing executive actions and can void illegal or unconstitutional actions. The judiciary is fair and nonpartisan in its application of this power. It does not need to rely upon the executive to initiate a constitutional or legal review.

**75:**

**50:** The judiciary will review executive actions, but is limited in its effectiveness. The judiciary may be slow to act, unwilling to take on politically sensitive issues, or occasionally unable to enforce its judgments.

**25:**

**0:** The judiciary does not effectively review executive policy. The judiciary may make judgments but not enforce them, or may fail to pass judgments on executive abuses. The judiciary may be partisan in its application of power. It must rely on instructions from the executive in order to initiate a legal or constitutional review.

27d. In practice, the chief executive limits the use of executive orders for establishing new regulations, policies, or government practices.

100 | 75 | 50 | 25 | 0

**Comments:**

Alexander Iskandaryan describes the Armenian legislature as weak and under influence from the executive. The anonymous civil servant confirms that there is no need for the chief executive to try to circumvent the legislature. He could not recall a case when the president or the prime minister needed something passed through the National Assembly and did not get it passed, needing to rely on executive orders instead. Overall, on the surface the chief executive acts within reasonable limits: Whatever needs to go through the parliament, goes through the parliament, since the parliament is dependent on the executive.

**References:**

Alexander Iskandaryan, 2011, Armenia, Freedom House. <http://www.freedomhouse.org/images/File/nit/2011/NIT-2011->

Anonymous civil servant. Date of interview: September 25, 2011. Place of interview: street cafe in Yerevan, Armenia.

**100:** The chief executive utilizes executive orders only when there is no constitutional or legal requirement for official legislative action or approval. Executive orders are limited in number and narrow in scope.

**75:**

**50:** The chief executive sometimes relies on executive orders to implement policies and regulations opposed by the legislature. Some executive orders are overly broad in scope and are designed to circumvent constitutional or legal requirements for legislative action or approval.

**25:**

**0:** The chief executive routinely abuses executive orders to render the legislature practically useless. Executive orders are the norm, not the exception, and directly contravene constitutional or legal requirements for legislative action or approval.

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## 28. Is the executive leadership subject to criminal proceedings?

100

28a. In law, the heads of state and government can be prosecuted for crimes they commit.

Yes

No

### Comments:

Constitution Article 56.1: "The President of the Republic may be prosecuted for the actions not connected with his or her status after the expiration of his/her term of office."

Article 57: "The President may be impeached for state treason or other heavy crimes." No provisions of immunity are envisioned for the prime minister.

Criminal Code, Section 5, does not envision any exemptions from criminal liability and punishment based on office (only exemptions from punishment based on things like pregnancy or illness). Article 308 specifies punishments up to imprisonment. It does not envision any immunity for any public servants. The same is true for Article 309.

### References:

Constitution of the Republic of Armenia, 2005, Articles 56.1 and 57. <http://www.parliament.am/parliament.php?id=constitution&lang=eng>.

National Assembly of the Republic of Armenia, 2003, Criminal Code of the Republic of Armenia, Section 5; Section 11, Chapter 29, Article 308, "Abuse of official authority"; Article 309, "Exceeding official authorities." <http://www.parliament.am/legislation.php?sel=show&ID=1349&lang=eng> (Accessed August 18, 2011).

**Yes:** A YES score is earned if the heads of state and government can be investigated, charged or prosecuted for criminal allegations. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

**No:** A NO score is earned if either the head of state or government cannot be investigated, charged or prosecuted for criminal allegations or the executive branch controls whether investigative or prosecutorial immunity can be lifted on the heads of state or government.

28b. In law, ministerial-level officials can be prosecuted for crimes they commit.

Yes | No

**Comments:**

The Constitution does not envision any immunity for ministers.

The Criminal Code, Section 5, does not envision any exemptions from criminal liability and punishment based on office (only exemptions from punishment based on things like pregnancy or illness). Article 308 specifies punishments up to imprisonment. It does not envision any immunity for any public servants. The same is true for Article 309.

**References:**

Constitution of the Republic of Armenia, 2005, Articles 56.1 and 57. <http://www.parliament.am/parliament.php?id=constitution&lang=eng>.

National Assembly of the Republic of Armenia, 2003, Criminal Code of the Republic of Armenia, Section 5; Section 11, Chapter 29, Article 308, "Abuse of official authority"; Article 309 "Exceeding official authorities." <http://www.parliament.am/legislation.php?sel=show&ID=1349&lang=eng> (Accessed August 18, 2011).

**Yes:** A YES score is earned if ministerial-level officials, or their equivalents, can all be investigated, charged or prosecuted for criminal allegations.

**No:** A NO score is earned if any ministerial-level official, or equivalent official, cannot be investigated, charged or prosecuted for criminal allegations or the executive branch controls whether investigative or prosecutorial immunity can be lifted on ministerial-level officials.

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## 29. Are there regulations governing conflicts of interest by the executive branch?

38

29a. In law, the heads of state and government are required to file a regular asset disclosure form.

Yes | No

**Comments:**

The Law on Declaration, Article 5.2, states that persons holding political office are required to file a regular asset disclosure form. The Law on Civil Service, Article 3.2, explicitly lists the president and the prime minister as political positions, which means the Law on Declaration applies to them as well.

**References:**

National Assembly of the Republic of Armenia, 2006, Law of the Republic of Armenia on Declaration of Property and Income of Physical Persons, Article 5.2. <http://www.parliament.am/legislation.php?sel=show&ID=2731&lang=arm> (Accessed August 18, 2011).

National Assembly of the Republic of Armenia, 2001, Law of the Republic of Armenia on Civil Service, Article 3.2. <http://www.parliament.am/legislation.php?sel=show&ID=1268&lang=eng> (Accessed August 18, 2011).

**Yes:** A YES score is earned if the heads of state and government are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form need not be publicly available to score a YES. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

**No:** A NO score is earned if either the head of state or government is not required to disclose assets.

29b. In law, ministerial-level officials are required to file a regular asset disclosure form.

Yes | No

**Comments:**

The Law on Declaration, Article 5.2, states that persons holding political office are required to file a regular asset disclosure form. The Law on Civil Service, Article 3.2, explicitly lists the minister as political positions.

**References:**

National Assembly of the Republic of Armenia, 2006, Law of the Republic of Armenia on Declaration of Property and Income of Physical Persons, Article 5.2. <http://www.parliament.am/legislation.php?sel=show&ID=2731&lang=arm> (Accessed August 18, 2011).

National Assembly of the Republic of Armenia, 2001, Law of the Republic of Armenia on Civil Service, Article 3.2. <http://www.parliament.am/legislation.php?sel=show&ID=1268&lang=eng> (Accessed August 18, 2011).

**Yes:** A YES score is earned if ministerial-level officials, or their equivalents, are all required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets.

**No:** A NO score is earned if ministers are not required to disclose assets. A NO score is earned if some ministers must disclose assets, but other ministers are not required.

29c. In law, there are regulations governing gifts and hospitality offered to members of the executive branch.

Yes | No

**Comments:**

Government Decision No. 48 defines "gifts received as an official" as all gifts except those presented by relatives or persons with whom the official is not in a working relationship. Gifts exceeding five times the salary of the official are to be handed over to the state.

Law on Civil Service, Article 24: "Civil servants cannot receive gifts, money or services for performing their service duties as representatives of the state."

**References:**

National Assembly of the Republic of Armenia, 2001, Law of the Republic of Armenia on Civil Service, Article 24, "Restrictions applied to the Civil Servant". <http://www.parliament.am/legislation.php?sel=show&ID=1268&lang=eng> (Accessed August 18, 2011).

Government of the Republic of Armenia, 1993, "Decision on Order of Handing Over to the State Gifts Received as an Official"; Decision No. 48, adopted on February 17, 1993. <http://www.artis.am/> (Accessed August 17, 2011).



**Yes:** A YES score is earned if there are formal guidelines regulating gifts and hospitality offered to members of the executive branch of government.

**No:** A NO score is earned if there are no guidelines or regulations with respect to gifts and hospitality offered to members of the executive branch. A NO score is earned if the guidelines are overly general and do not specify what is and is not appropriate.

29d. In law, there are requirements for the independent auditing of the executive branch asset disclosure forms (defined here as ministers and heads of state and government).

Yes

No

**Comments:**

Law on Declarations, Article 17.2, states that the Tax Service can launch an investigation in case of doubt. The Tax Service is part of the executive branch, hence does not qualify as impartial. No independent audit is envisioned.

**References:**

National Assembly of the Republic of Armenia, 2006, Law of the Republic of Armenia on Declaration of Property and Income of Physical Persons, Article 17.2. <http://www.parliament.am/legislation.php?sel=show&ID=2731&lang=arm> (Accessed August 18, 2011).

**Yes:** A YES score is earned if there is a legal or regulatory requirement for independent auditing of executive branch asset disclosures. The auditing is performed by an impartial third-party. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

**No:** A NO score is earned if there are no legal or regulatory requirements for the independent auditing of executive branch asset disclosures or if such requirements exist but allow for self-auditing.

29e. In law, there are restrictions on heads of state and government and ministers entering the private sector after leaving the government.

Yes

No

**Comments:**

The Constitution provides restrictions for the term of office, but not afterward.

Article 88: "A member of the Government may not be engaged in entrepreneurial activities, hold an office in state and local self-government bodies or in commercial organizations not connected with his/her duties, or be involved in another paid work, save for academic, pedagogical and creative activities."

Two lawyers and a civil servant were consulted on this issue, but none of them was aware of any post-employment restrictions.

**References:**

Constitution of the Republic of Armenia, 2005, Article 88. <http://www.parliament.am/parliament.php?id=constitution&lang=eng>.

Armen Mazmanyan, assistant professor at the American University of Armenia, Department of Law. Date of interview: September 30, 2011.

Gevorg Hayrapetyan, lawyer at Freedom of Information Center NGO. Date of interview: August 29, 2011. Place of interview: Freedom of Information Center, Yerevan, Armenia  
Interview with a civil servant who wished to remain anonymous. He is an employee of the Ministry of Finance. Date of interview: September 15, 2011

**Yes:** A YES score is earned if there are regulations restricting the ability of heads of state/government and ministers to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

**No:** A NO score is earned if no such restrictions exist.

29f. In practice, the regulations restricting post-government private sector employment for heads of state and government and ministers are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

There are no formal restrictions on post-governmental employment in the private sector. It's meaningless to speak about their enforcement. Those who leave the government often go into business. Even those who are currently in the government are informally known to own this or that business.

**References:**

Anonymous civil servant. Date of interview: September 25, 2011. Place of interview: street cafe in Yerevan, Armenia.

**100:** The regulations restricting post-government private sector employment for heads of state/government and ministers are uniformly enforced. There are no cases or few cases of those officials taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate "cooling off" period.

**75:**

**50:** The regulations are generally enforced though some exceptions exist. In certain sectors, heads of state/government or ministers are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

**25:**

**0:** The regulations are rarely or never enforced. Heads of state/government or ministers routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced. A zero score is also earned if heads of state and government or minister are allowed to hold private sector jobs while in office.

29g. In practice, the regulations governing gifts and hospitality offered to members of the executive branch are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

Gifts and hospitality are a subset of a larger culture of corruption present in Armenia.

Alexander Iskandaryan speaks of the widespread corruption ingrained in the Armenian society, and gifts and hospitality to members of the executive are no exception.

The Bertelsman report states that corruption and abuse of power are a norm in the Armenian state apparatus.

#### References:

Alexander Iskandaryan, 2011, Armenia, Freedom House. <http://www.freedomhouse.org/images/File/nit/2011/NIT-2011-Armenia.pdf> (Accessed August 6, 2011).

International Finance Corp., 2011, Doing Business 2011, "Armenia. Making a Difference for Entrepreneurs," the International Bank for Reconstruction and Development / The World Bank. <http://www.doingbusiness.org/~media/fpdkm/doing%20business/documents/profiles/country/db11/arm.pdf> (Accessed August 4, 2011).

Bertelsmann Stiftung, 2009, BTI 2010 — Armenia Country Report, Gütersloh: Bertelsmann Stiftung. <http://www.bertelsmann-transformation-index.de/148.0.html?&L=1> (Accessed August 22, 2011).

**100:** The regulations governing gifts and hospitality to members of the executive branch are regularly enforced. Members of the executive branch never or rarely accept gifts or hospitality above what is allowed.

**75:**

**50:** The regulations governing gifts and hospitality to members of the executive branch are generally applied though exceptions exist. Some ministers in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

**25:**

**0:** The regulations governing gifts and hospitality to members of the executive branch are routinely ignored and unenforced. Ministers and other members of the executive branch routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

29h. In practice, executive branch asset disclosures (defined here as ministers and above) are audited.

100 | 75 | 50 | 25 | 0

#### Comments:

In the article above, the journalist tried to find out which state institution is in charge of investigating the source of a fashionable private house built by the chairman of the Chamber of Control and luxurious company cars exploited by the minister of defense and the prosecutor general (the latter being in the balance of a private company). The journalist was directed from one agency to another (Prosecutor's Office, State Revenue Committee, National Security Service and Police, Standing Committee on State and Legal Affairs of the National Assembly), none of which said it was its responsibility. At the end, the journalist was advised to apply to court if she wanted to pursue the matter of investigating whether these assets were acquired and used in a legal way.

An interview was conducted with a civil service employee who requested anonymity. The interviewee confirmed that to the best of his knowledge there was no auditing of declarations of executive branch officials.

#### References:

Lusine Barseghyan, 2011, "Անտեր իմ երկիր ՀՀալաստան." Հայկական ժամանակ. <http://www.armtimes.com/28173> (Accessed September 29, 2011). Printed on September 23, 2011

Translation: "My Owner-less Country Armenia." Printed in the Haykakan Zhamanak daily newspaper.

**100:** Executive branch asset disclosures are regularly audited using generally accepted auditing practices.

75:

50: Executive branch asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

25:

0: Executive branch asset disclosures are not audited, or the audits performed have no value. Audits may be performed by entities known to be partisan or biased in their practices.

### 30. Can citizens access the asset disclosure records of the heads of state and government?

63

30a. In law, citizens can access the asset disclosure records of the heads of state and government.

Yes

No

#### Comments:

Law on Declaration, Article 16.2: "The state defines the information contained in the declaration that is due for publication."

Article 16.4 states that the government submits the publication due information contained in the declaration to registered media entities.

#### References:

National Assembly of the Republic of Armenia, 2006, Law of the Republic of Armenia on Declaration of Property and Income of Physical Persons, Articles 16.2 and 16.4. <http://www.parliament.am/legislation.php?sel=show&ID=2731&lang=arm> (Accessed August 18, 2011).

**Yes:** A YES score is earned if the heads of state and government file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

**No:** A NO score is earned if there is no asset disclosure for either the head of state or government. A NO score is earned if the form is filed, but not available to the public.

30b. In practice, citizens can access the asset disclosure records of the heads of state and government within a reasonable time period.

100

75

50

25

0

#### Comments:

According to Gevorg Hayrapetyan: We usually get responses within a reasonable time period of about 10 working days. However, we are an NGO; for an average citizen it could take longer and the chance of no response can be higher.

Note: According to Armenian legislation (see State Revenue Committee decision above), the information on asset disclosure forms can be requested within a specific time period: between August 1 and December 1. That is an additional restriction in terms of time frame. Nonetheless, thanks to the work of some NGOs and the media, some general information on the incomes of high-level state officials is available online through the year.

**References:**

Gevorg Hayrapetyan, 2011, "Access to Information," lawyer at Freedom of Information Center, Yerevan, Armenia. Date of interview: August 29, 2011. Place of Interview: Freedom of Information Center of Armenia office, Yerevan, Armenia

Նորաթերթ. 2011. "2010թ.-ին ամենաշատ եկամուտ ստացած մարզպետը Լոռու մարզպետն է." <http://noratert.am/news/id/9577.html> (Accessed September 27, 2011).

Translation: Noratert (name of an online news portal): "The Governor of Lori Region is the governor with the most income"

State Revenue Committee of the Republic of Armenia, 2008, Order on the Approval of the Directive on "Submission of Declarations to a Superior Tax Body," Appendix 2, Point 5. <http://www.arlis.am/> (Accessed August 17, 2011).

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some additional delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

30c. In practice, citizens can access the asset disclosure records of the heads of state and government at a reasonable cost.

100 | **75** | 50 | 25 | 0

**Comments:**

The Freedom of Information Center of Armenia NGO regularly obtains Republic of Armenia officials' income declarations (2005-2010) and publishes the information online with some analysis of overall trends. The NGO's lawyer, Gevorg Hayrapetyan, said that usually there are no costs associated with obtaining the information from the state tax authorities. However, as a general pattern he noted that as they are a known NGO they receive higher response rates and better quality responses compared with an average citizen.

**References:**

Freedom of Information Center of Armenia, 2010, "RA officials' income & asset declarations" <http://www.foi.am/en/declarations/> (Accessed September 27, 2011).

Gevorg Hayrapetyan, 2011, "Access to Information," lawyer at Freedom of Information Center, Yerevan Armenia. Date of interview: August 29, 2011. Place of Interview: Freedom of Information Center of Armenia office, Yerevan, Armenia

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

30d. In practice, the asset disclosure records of the heads of state and government are of high quality.

100 | 75 | 50 | 25 | 0

**Comments:**

The data renders itself to at least some useful analysis, as the Freedom of Information Center NGO has demonstrated. However, there is a strong skepticism as to whether this information is complete or adequate.

Online media review revealed no information on the president and the prime minister's asset disclosures being published.

**References:**

Freedom of Information Center of Armenia, 2010, "RA officials' income & asset declarations." <http://www.foi.am/en/declarations/> (Accessed September 27, 2011).

**100:** The asset disclosure records of the heads of state and government are complete and detailed, providing the public with an accurate and updated accounting of the individuals' sources of income, investments, and other financial interests.

**75:**

**50:** The asset disclosure records of the heads of state and government contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

**25:**

**0:** The asset disclosure records of the heads of state and government are overly general, lack any meaningful detail, and do not provide a clear accounting of the individuals' sources of income, investments, and other financial assets.

31. In practice, official government functions are kept separate and distinct from the functions of the ruling political party.

0

31a. In practice, official government functions are kept separate and distinct from the functions of the ruling political party.

100 | 75 | 50 | 25 | 0

**Comments:**

According to the OSCE report, during the most recent national elections (presidential elections in 2008), the governmental structures and resources were used to favor one of the candidates, prime minister Serzh Sargsyan, who became the president.

The Freedom House report also notes "abuse of administrative resources in favor of ruling party candidate" at the presidential elections. Corruption and nepotism are widespread in the system, making it difficult not only to distinguish between state and party but also among state, party and private interests.

**References:**

Organization for Security and Co-operation in Europe, 2008, Republic of Armenia Presidential Election, February 19, 2008,

**100:** Clear rules are followed distinguishing state functions from party activities. Government funds are never used for party activities. The civil service is completely distinct from party bureaucracy.

**75:**

**50:** The ruling party is, in principal, separate from the state, but exceptions to this standard sometimes occur. Examples may be the use of civil servants to organize political rallies, use of government vehicles on campaign trips, or use of government funds for party purposes.

**25:**

**0:** The government bureaucracy is an extension of the ruling party. There are few boundaries between government and party activities. Government funds, equipment and personnel are regularly used to support party activities.

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## 3.2. Conflicts of Interest Safeguards & Checks and Balances: Legislative Branch

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### 32. Can members of the legislature be held accountable for their actions?

75

32a. In law, the judiciary can review laws passed by the legislature.

Yes

No

#### Comments:

According to Constitution Articles 100.1 and 100.2, the Constitutional Court has the power to determine the constitutionality of laws and other normative acts. Its jurisdiction includes determining the constitutionality of laws and resolutions of the National Assembly (the legislative body of Armenia).

According to Civil Procedure Code, Article 106.2, if a judge believes that a law or other normative act is unconstitutional, he may suspend the trial and seek a decision from the Constitutional Court on the issue of constitutionality.

The Law on the Constitutional Court defines all the formal procedures for reviewing the laws passed by the National Assembly.

#### References:

Constitution of the Republic of Armenia, 2005, Articles 100.1 and 100.2. <http://www.parliament.am/parliament.php?id=constitution&lang=eng>.

National Assembly of the Republic of Armenia, 1998, Civil Procedure Code of the Republic of Armenia, Article 106.2. <http://www.parliament.am/legislation.php?sel=show&ID=1918&lang=eng> (Accessed August 18, 2011).

**Yes:** A YES score is earned if there is a formal process by which the judiciary or constitutional courts can pass judgments on the legality or constitutionality of laws passed by the legislature.

**No:** A NO score is earned if no such mechanism exists. A NO score is earned if judicial review is vaguely established in law or regulation without formal procedures. A NO score is earned if general exceptions exist exempting certain legislative actions from being reviewed (a national security exemption, for example).

32b. In practice, when necessary, the judiciary reviews laws passed by the legislature.

100 | 75 | 50 | 25 | 0

**Comments:**

According to Armen Mazmanyan, only the Constitutional Court has the jurisdiction to review the laws passed by the National Assembly. It does so until a certain limit, unless powerful political interests are at stake. It cannot be entirely nonpartisan, considering how members are appointed, but it does not act in an obviously partisan manner either.

**References:**

Armen Mazmanyan, 2011, "Functioning of judiciary in Armenia," assistant professor, programs director, Legal Resource Center, American University of Armenia. Place of interview: American University of Armenia, Yerevan, Armenia. Date of interview: September 30, 2011

**100:** When constitutional or legal questions or possible violations are raised, the judiciary is aggressive in reviewing laws passed and can void illegal or unconstitutional actions. The judiciary is fair and nonpartisan in its application of this power.

**75:**

**50:** The judiciary will review laws passed, but is limited in its effectiveness. The judiciary may be slow to act, unwilling to take on politically sensitive issues, or occasionally unable to enforce its judgments.

**25:**

**0:** The judiciary does not effectively review laws passed. The judiciary may make judgments but not enforce them, or may fail to pass judgments on executive abuses. The judiciary may be partisan in its application of power.

32c. In law, are members of the national legislature subject to criminal proceedings?

Yes | No

**Comments:**

Constitution, Article 66: "A deputy may not be arrested without the consent of the National Assembly except for cases when he/she is arrested when caught in the act. In such a case the chairman of the National Assembly shall be immediately notified."

Although there is a strong protection, there is a possibility to subject a member of the legislature to criminal proceedings, with the consent of the National Assembly.



**References:**

Constitution of the Republic of Armenia, 2005, Article 66. <http://www.parliament.am/parliament.php?id=constitution&lang=eng>.

**Yes:** A YES score is earned if all members of the legislature can, in law, be investigated and prosecuted for criminal allegations.

**No:** A NO score is earned if any member of the legislature cannot, in law, be investigated and prosecuted for criminal proceedings. A NO score is also earned if the legislative branch itself controls whether investigative or prosecutorial immunity can be lifted on members of the legislature.

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### 33. Are there regulations governing conflicts of interest by members of the national legislature?

29

33a. In law, members of the national legislature are required to file an asset disclosure form.

Yes | No

**Comments:**

The Law on Declaration, Article 5.2, states that persons holding political office are required to file a regular asset disclosure form. The Law on Civil Service, Article 3.2, explicitly lists the National Assembly deputies as political positions.

**References:**

National Assembly of the Republic of Armenia, 2006, Law of the Republic of Armenia on Declaration of Property and Income of Physical Persons, Article 5.2. <http://www.parliament.am/legislation.php?sel=show&ID=2731&lang=arm> (Accessed August 18, 2011).

National Assembly of the Republic of Armenia, 2001, Law of the Republic of Armenia on Civil Service, Article 3.2. <http://www.parliament.am/legislation.php?sel=show&ID=1268&lang=eng> (Accessed August 18, 2011).

**Yes:** A YES score is earned if all members of the legislature are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

**No:** A NO score is earned if any member of the legislature is not required to disclose assets.

33b. In law, there are restrictions for national legislators entering the private sector after leaving the government.

Yes | No

**Comments:**

The Constitution, Article 65, restricts current but not future activities of the deputy of the National Assembly: "A deputy may not be engaged in entrepreneurial activities, hold an office in state and local self-government bodies or in commercial organizations, as well as engage in any other paid occupation, except for scientific, educational and creative work. A deputy shall discharge his/her responsibilities on a permanent basis."

**References:**

Constitution of the Republic of Armenia, 2005, Article 65. <http://www.parliament.am/parliament.php?id=constitution&lang=eng>.

**Yes:** A YES score is earned if there are regulations restricting national legislators' ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

**No:** A NO score is earned if no such restrictions exist.

33c. In law, there are regulations governing gifts and hospitality offered to members of the national legislature.

Yes

No

**Comments:**

The recently adopted Law on Public Service has some provisions regarding gifts and hospitality to public service and "higher officials," which include members of parliament. Article 29 stipulates types of gifts that are acceptable and sets an upper limit (approximately \$270) of acceptable gift value.

Article 5.15 lists members of Parliament under "higher state official" category. The law applies to higher-level state officials (it says so throughout, see, for example, Chapter 6, Article 29, which I mention in the reference and the comments), hence it applies to MPs as well.

**References:**

National Assembly of the Republic of Armenia, 2011, Law of the Republic of Armenia on Public Service, Chapter 6, "Public Servants and Higher Officials Ethics Rules and Prohibition to Accept Gifts," Article 29, "Prohibition of Accepting Gifts." <http://www.parliament.am/legislation.php?sel=show&ID=4225&lang=arm#6> (Accessed August 18, 2011).

**Yes:** A YES score is earned if there are formal guidelines regulating gifts and hospitality for members of the legislature.

**No:** A NO score is earned if there are no guidelines or regulations with respect to gifts or hospitality offered to members of the legislature. A NO score is earned if the guidelines are general and do not specify what is and is not appropriate.

33d. In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national legislature.

Yes

No

**Comments:**

The Law on Declarations, Article 17.2, states that the Tax Service can launch an investigation in case of doubt. No independent audit is envisioned.

**References:**

National Assembly of the Republic of Armenia, 2006, Law of the Republic of Armenia on Declaration of Property and Income of Physical Persons. <http://www.parliament.am/legislation.php?sel=show&ID=2731&lang=arm> (Accessed August 18, 2011).

**Yes:** A YES score is earned if there is a legal or regulatory requirement for independent auditing of legislative branch asset disclosures. The auditing is performed by an impartial third-party.

**No:** A NO score is earned if there are no legal or regulatory requirements for the independent auditing of legislative branch asset disclosures or if such requirements exist but allow for self-auditing.

33e. In practice, the regulations restricting post-government private sector employment for national legislators are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

According to the civil servant, there are no formal restrictions on post-governmental employment in the private sector, hence it is meaningless to speak about enforcement of restrictions. A number of our current National Assembly deputies are well-known businessmen, and it's very likely they will go back to their businesses once their terms are over. In fact, it is very likely they are still actively engaged in those businesses.

**References:**

Anonymous civil servant. Date of interview: September 25, 2011. Place of interview: street cafe in Yerevan, Armenia.

**100:** The regulations restricting post-government private sector employment for national legislators are uniformly enforced. There are no cases or few cases of legislators taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate "cooling off" period.

**75:**

**50:** The regulations are generally enforced though some exceptions exist. In certain sectors, legislators are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

**25:**

**0:** The regulations are rarely or never enforced. Legislators routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced. A zero score is also earned if legislators are allowed to hold private sector positions while in office.

33f. In practice, the regulations governing gifts and hospitality offered to national legislators are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

The law has only recently been enacted. In the overall culture of widespread corruption, it is unrealistic to expect the regulations to start being regularly enforced. The online article by Grisha Balasanyan cited above nicely illustrates the point, as the members of Parliament themselves consider the law "unjust" and say it is not realistic to monitor.

Quoting from the article:

"She [an MP] told Hetq that the gifts clause would never work in practice since there were 131 MPs in the parliament and that such transactions could never be monitored."

'How will they ever know who visited which MP's office and what gifts were exchanged? Do they plan on installing cameras in each office?' "

**References:**

Grisha Balasanyan, May 12, 2011, Hetq Online: "Public Service Law Amendments Worry MP's." <http://hetq.am/eng/articles/1160/> (Accessed September 27, 2011).

Alexander Iskandaryan, 2011, Armenia, Freedom House. <http://www.freedomhouse.org/images/File/nit/2011/NIT-2011-Armenia.pdf> (Accessed August 6, 2011).

**100:** The regulations governing gifts and hospitality to national legislators are regularly enforced. Legislators never or rarely accept gifts or hospitality above what is allowed.

**75:**

**50:** The regulations governing gifts and hospitality to national legislators are generally applied though exceptions exist. Some legislators in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

**25:**

**0:** The regulations are rarely or never enforced. Legislators routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

33g. In practice, national legislative branch asset disclosures are audited.

100 | 75 | 50 | 25 | 0

**Comments:**

The civil servant explained that all asset declarations are collected by a separate department of the Tax Service of the State Revenue Committee, but that's where it stops. No analysis is being done; there is no audit.

**References:**

Interview with a civil servant who wishes to remain anonymous. Date of interview: September 25, 2011. Place of interview: street cafe in Yerevan, Armenia.

**100:** Legislative branch asset disclosures are regularly audited using generally accepted auditing practices.

**75:**

**50:** Legislative branch asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

**25:**

**0:** The regulations are rarely or never enforced. Legislators routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

---

## 34. Can citizens access the asset disclosure records of members of the national legislature?

63

34a. In law, citizens can access the asset disclosure records of members of the national legislature.

Yes | No

**Comments:**

According to the Law on Declaration, Article 16.2: The state defines the information contained in the declaration that is due for publication. Article 16.4 states that the government submits information contained in the declaration to registered media entities.

**References:**

National Assembly of the Republic of Armenia, 2006, Law of the Republic of Armenia on Declaration of Property and Income of Physical Persons, Article 16.2, Article 16.4. <http://www.parliament.am/legislation.php?sel=show&ID=2731&lang=arm> (Accessed August 18, 2011).

**Yes:** A YES score is earned if members of the national legislature file an asset disclosure form that is, in law, accessible to the public (individuals, non-governmental groups or journalists).

**No:** A NO score is earned if there is no asset disclosure for members of the national legislature. A NO score is earned if the form is filed, but not available to the public.

34b. In practice, citizens can access legislative asset disclosure records within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

According to Gevorg Hayrapetyan, tax authorities are not the most cooperative agency among those they have to deal with.

The Haykakan Zhamanak newspaper published some of the MP asset declarations with some basic analysis.

Note: According to Armenian legislation (see the State Revenue Committee decision above), the information on asset disclosure forms can be requested within a specific time period, between August 1 and December 1. That is an additional restriction in terms of time frame.

**References:**

Gevorg Hayrapetyan, 2011, "Access to Information," lawyer at Freedom of Information Center, Yerevan, Armenia. Date of interview: August 29, 2011. Place of Interview: Freedom of Information Center of Armenia office, Yerevan, Armenia

Հայկական ժամանակ. 2011. "Նկամուտների հայտարարագիր." <http://www.armtimes.com/tag/5605> (Accessed September 27, 2011).

Translation: Haykakan Zhamanak (daily newspaper with an online portal) "Asset disclosure"

State Revenue Committee of the Republic of Armenia, 2008, Order on the Approval of the Directive on "Submission of Declarations to a Superior Tax Body," Appendix 2, Point 5. <http://www.arlis.am/> (Accessed August 17, 2011).

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

34c. In practice, citizens can access legislative asset disclosure records at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

The Haykakan Zhamanak daily newspaper published the asset disclosure forms of some members of Parliament with a short analysis of each. However, this information, available online, is incomplete.

**References:**

Հայկական ժամանակ. 2011. “Եկամուտների հայտարարագիր.” <http://www.armtimes.com/tag/5605> (Accessed September 27, 2011).

Translation: Haykakan Zhamanak (name of a daily newspaper also published online), “Asset Declaration”

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

34d. In practice, the asset disclosure records of members of the national legislature are of high quality.

100 | 75 | 50 | 25 | 0

**Comments:**

The Haykakan Zhamanak daily newspaper published the asset disclosure forms of some members of Parliament with a short analysis of each. The newspaper analysts are skeptical that the asset disclosure forms truly reflect the reality of Parliament members’ incomes.

**References:**

Հայկական ժամանակ. 2011. “Եկամուտների հայտարարագիր.” <http://www.armtimes.com/tag/5605> (Accessed September 27, 2011).

Translation: Haykakan Zhamanak (name of a daily newspaper also published online), “Asset Declaration”

100: The asset disclosure records of members of the national legislature are complete and detailed, providing the public with an accurate and updated accounting of the individuals’ sources of income, investments, and other financial interests.

75:

50: The asset disclosure records of the members of the national legislature contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

25:

0: The asset disclosure records of the members of the national legislature are overly general, lack any meaningful detail, and do not provide clear accounting of the individuals' sources of income, investments, and other financial assets.

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## 35. Can citizens access legislative processes and documents?

92

35a. In law, citizens can access records of legislative processes and documents.

Yes

No

### Comments:

The Constitution, Article 69: "The sittings of the National Assembly shall be open to the public. Closed-door sittings may be convened by a resolution of the National Assembly."

The Rules and Procedures of the National Assembly, Article 112.2: "The open sittings of the National Assembly shall be broadcast live by the Public Radio Channel, unless another resolution is adopted by the National Assembly."

According to Article 112.3: "Coverage of the work of the National Assembly by mass media shall be organized by the staff, which shall:

- a) prepare the official information for release by the Public Television and Radio Company.
- b) carry out the videotaping of the deputies' announcements stipulated by the 3rd paragraph of the 35th Article of the present Law, as well as the preparation of television program "Parliamentary Hour" and of other television programs.
- c) post on the website of the National Assembly the presence of the deputies at the open sitting of the National Assembly and the results of the personal voting."

### References:

Constitution of the Republic of Armenia, 2005, Article 69. <http://www.parliament.am/parliament.php?id=constitution&lang=eng>.

National Assembly of the Republic of Armenia, 2002, Law of the Republic of Armenia Rules of Procedure of the National Assembly, Article 112, "Coverage of the work of the National Assembly". <http://www.parliament.am/legislation.php?sel=show&ID=38&lang=eng> (Accessed August 18, 2011).

**Yes:** A YES score is earned if there is a general legal right to access records of legislative proceedings including voting records. A YES score can still be given if there are formal rules for specific exemptions to the right to disclosure (special secret sessions related to national security).

**No:** A NO score is earned if there is no general right to access documents recording legislative proceedings. A NO score is earned if there are exemptions to the general right that are not clearly defined by formal rules.

35b. In practice, citizens can access records of legislative processes and documents within a reasonable time period.

**Comments:**

According to Gevorg Hayrapetyan: Mostly, the National Assembly replies in several days; in some cases there were delays; once we received no reply but that could be because we sent the request to an email address stated on the website: These emails are sometimes outdated or overlooked.

It should also be noted that draft laws, proposed law amendments, etc., are available online on the parliament website (in Armenian): <http://www.parliament.am/drafts.php?lang=arm>

Laws that already have been enacted are available as well on the parliament website at <http://www.parliament.am/legislation.php?sel=alpha&lang=arm> (most up to date and complete list), <http://www.parliament.am/legislation.php?sel=alpha&lang=eng> (English incomplete list) and on an Armenian Legal Information System web portal, <http://www.arlis.am/default.aspx>. There are, however, no online documents of legislative processes (parliamentary debates, voting roll calls, etc.)

**References:**

Gevorg Hayrapetyan, lawyer at Freedom of Information Center NGO. Date of interview: August 29, 2011. Place of interview: Freedom of Information Center, Yerevan, Armenia.

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

35c. In practice, citizens can access records of legislative processes and documents at a reasonable cost.

**Comments:**

According to Gevorg Hayrapetyan: The National Assembly provided the information we requested free of charge.

It should also be noted that draft laws, proposed law amendments, etc., are available online on the parliament website (in Armenian): <http://www.parliament.am/drafts.php?lang=arm>

Laws that already have been enacted are available as well on the parliament website at <http://www.parliament.am/legislation.php?sel=alpha&lang=arm> (Armenian most up to date and complete list), <http://www.parliament.am/legislation.php?sel=alpha&lang=eng> (English incomplete list) and on an Armenian Legal Information System web portal, <http://www.arlis.am/default.aspx>. There are, however, no online documents of legislative processes (parliamentary debates, voting roll calls, etc.)

**References:**

Gevorg Hayrapetyan, lawyer at Freedom of Information Center NGO. Date of interview: August 29, 2011. Place of interview: Freedom of Information Center, Yerevan, Armenia.



**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

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### 64 3.3. Conflicts of Interest Safeguards & Checks and Balances: Judicial Branch

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#### 36. Are judges appointed fairly?

33

36a. In law, there is a transparent procedure for selecting national-level judges.

Yes

No

#### Comments:

The procedure is clearly specified but there is no public oversight.

The Constitution, Articles 55.10 and 55.11, specify that the president appoints judges to the courts of general jurisdiction, specialized courts, courts of appeal, and the Court of Cassation upon the recommendation of the Council of Justice, as well as four members of the Constitutional Court.

Article 115 of the 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, organizational, ethical, and other similar requirements spelled out in Article 135 of the same code. The selection process includes the following steps:

- The Governing Council of the Republic of Armenia Judicial School submits to the RA Council of Justice a list of the 16 candidates who received the highest scores.
- The Council of Justice reviews the list and invites candidates for interviews.
- The 13 members of the Council of Justice vote.
- The RA president approves the list of candidates.

#### References:

Constitution of the Republic of Armenia, 2005, Articles 55.10 and 55.11. <http://www.parliament.am/parliament.php?id=constitution&lang=eng>.

National Assembly of the Republic of Armenia, 2007, Judicial Code of the Republic of Armenia, Article 115-117, Article 135. <http://www.parliament.am/legislation.php?sel=show&ID=2966&lang=eng> (Accessed August 18, 2011).

**Yes:** A YES score is earned if there is a formal process for selecting national level justices. This process should be public in the debating and confirmation stages. National-level judges are defined as judges who have powers that derive from a

national law or constitution; are nominated/appointed by a national governmental body (head of state/government or national legislature); and/or are elected nationally.

**No:** A NO score is given if there is no formal process of selection or the process is conducted without public oversight. National-level judges are defined as judges who have powers that derive from a national law or constitution; are nominated/appointed by a national governmental body (head of state/government or national legislature); and/or are elected nationally.

36b. In practice, professional criteria are followed in selecting national-level judges.

100 | 75 | 50 | 25 | 0

**Comments:**

According to the American Bar Association report: Judges are nominated on the basis of both objective criteria (such as passing a qualification examination) and subjective and unspecified criteria relating to interviews of candidates. The president retains the right to accept or reject nominees without specifying any reason for doing so.

The Transparency International report states no major changes compared with the last year, when the appointment and promotion of judges continues in many cases to be based on patronage, kinship and personal contacts rather than on merit. The use of political affiliation, bribery, kinship and other illegal and unethical means to gain a judgeship is a widespread practice.

**References:**

American Bar Association, 2008, Judicial Reform Index for Armenia Volume III, Washington, D.C: American Bar Association. [http://apps.americanbar.org/rol/publications/armenia\\_judicial\\_reform\\_index\\_01\\_08\\_eng.pdf](http://apps.americanbar.org/rol/publications/armenia_judicial_reform_index_01_08_eng.pdf) (Accessed August 24, 2011).

Transparency International Anti-Corruption Center, 2011, European Neighborhood Policy: Monitoring Armenia's Anti-corruption Commitments, 2010, Yerevan, Armenia. <http://transparency.am/publication.php?id=41> (Accessed August 25, 2011).

**100:** National-level judges selected have relevant professional qualifications such as formal legal training, experience as a lower court judge or a career as a litigator.

**75:**

**50:** Most national-level judges selected meet these qualifications, with some exceptions.

**25:**

**0:** National-level judges are often unqualified due to lack of training or experience.

36c. In law, there is a confirmation process for national-level judges (i.e. conducted by the legislature or an independent body).

Yes | No

**Comments:**

The nominees are appointed by the Council of Justice (judicial branch) and approved by the president of Armenia (executive branch), according to the Constitution, Articles 55.10 and 55.11, and the Judicial Code, Articles 115-117.

**References:**

Constitution of the Republic of Armenia, 2005, Article 55.10, Article 55.11. <http://www.parliament.am/parliament.php?id=constitution&lang=eng>.

National Assembly of the Republic of Armenia, 2007, Judicial Code of the Republic of Armenia, Articles 115-117. <http://www.parliament.am/legislation.php?sel=show&ID=2966&lang=eng> (Accessed August 18, 2011).

**Yes:** A YES score is earned if there is a formal process establishing a review of national-level judicial nominees by an agency or entity independent from the body appointing the judges.

**No:** A NO score is earned if there is no formal review. A NO score is earned if the review is conducted by the same body that appoints the judges (such as the Prime Minister approving judicial nominees put forward by the Minister of Justice, both of whom are part of the executive).

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### 37. Can members of the judiciary be held accountable for their actions?

58

37a. In law, members of the national-level judiciary are obliged to give reasons for their decisions.

Yes

No

**Comments:**

Administrative Procedure Code 112 states that the structure and content of court verdicts are regulated by the Civil Procedure Code.

Civil Procedure Code, Article 130.3: "The verdict of the court must be legitimate and grounded. The court grounds the verdict only based on evidence examined at the court session."

Article 131.1: "When adopting the verdict, the court:

- 1) assesses the evidence.
- 2) decides which relevant circumstances have been found out and which have not.
- 3) determines the applicable laws and other legal acts relevant for the case."

Article 132.1: "The verdict of the court consists of an introduction, description, motivation and conclusion. The introduction contains the name of the court which adopted the verdict, the set-up of the court, the case number, the year of case trial, the month, the place, the names (title) of persons participating in the case, the subject of dispute. The description must contain the brief description of the action, the response to the action, the petitions and motions of the persons participating in the case. The motivation must indicate the circumstances clarified by the court, the evidence on which the conclusions of the court are based, the argumentation for the exclusion of this or that evidence, as well as, those laws and other legal acts by which the court was governed when adopting the verdict. The conclusion must contain conclusions on upholding or rejecting each claim, as well as a note about the time limit for the appeal of the verdict."

Criminal Procedure Code Article 385: "The court verdict must be legal and grounded. The court verdict is legal if it was adopted in accordance with the Constitution of the Republic of Armenia, this Code and those laws whose norms are applied when resolving the given case.

"The court verdict is grounded, if:

- 1) its conclusions are based only on proofs examined during the court trial, these proofs are sufficient to evaluate the charges.
  - 2) the circumstances established and recognized by the court coincide with the proofs examined in the court.
- The court verdict must be argued. All conclusions and decrees described in the verdict are subject to argumentation."

Article 369: The verdict consists of the introduction, description and argumentation, and conclusion.

Article 371: Descriptive and argumentation part of the verdict indicates:

- 1) the content of the accusation.
- 2) the court's conclusion on the circumstances of the case, whether the accusations proved and the defendant's guilt.
- 3) the proofs on which the court's conclusions are based.
- 4) other norms of law by which the court was governed when adopting the decree.

**References:**

National Assembly of the Republic of Armenia, 2007, Administrative Procedure Code of the Republic of Armenia, Article 112. <http://www.parliament.am/legislation.php?sel=show&ID=3140&lang=arm> (Accessed August 18, 2011).

National Assembly of the Republic of Armenia, 1998, Civil Procedure Code of the Republic of Armenia, Article 130, "Adopting the verdict," Point 3; Article 131, "Issues to be resolved when adopting the verdict." Article 132. "Verdict content," Point 1. <http://www.parliament.am/legislation.php?sel=show&ID=1918&lang=eng> (Accessed August 18, 2011).

National Assembly of the Republic of Armenia, 1998, Criminal Procedure Code of the Republic of Armenia, Chapter 45, Adopting the Verdict; Article 358, Legal, grounded and argumented verdict; Article 369, Compiling the verdict, Article 371, Descriptive and argumentation part of the verdict. <http://www.parliament.am/legislation.php?sel=show&ID=1450&lang=eng> (Accessed August 18, 2011).

**Yes:** A YES score is earned if there is a formal and mandatory process for judges to explain their decisions.

**No:** A NO score is earned if justices are not required to explain decisions. A NO score is earned if there is a general exemption from explaining some decisions (such as national security).

37b. In practice, members of the national-level judiciary give reasons for their decisions.

100 | 75 | **50** | 25 | 0

**Comments:**

According to Armen Mazmanyanyan, the higher the level of the court the better the situation with formal written justifications. For lower level courts, the justifications can be illogical or unclear. Precedent exists only on a higher level and its status is not clear yet. It has just started in Armenia.

**References:**

Armen Mazmanyanyan, 2011, "Functioning of judiciary in Armenia," assistant professor, programs director, Legal Resource Center, American University of Armenia. Place of interview: American University of Armenia, Yerevan, Armenia. Date of interview: September 30, 2011

**100:** Judges are formally required to explain their judgments in detail, establishing a body of precedent. All judges comply with these requirements.

**75:**

**50:** Judges are compelled to give substantial reasons for their decisions, but some exceptions exist. These may include special courts, such as military courts or tribunals.

**25:**

**0:** Judges commonly issue decisions without formal explanations.

37c. In law, there is a disciplinary agency (or equivalent mechanism) for the national-level judicial system.

**Yes** | No

**Comments:**

Judicial Code, Article 106:

"Disciplinary Committee of the Council of Justice has the right

- 1) to instigate disciplinary proceedings against first instance and appellate judges and court chairmen and to file motions thereon to the Justice Council, and
- 2) based on a request by the Ethics Committee of the Council of Court Chairmen, to instigate disciplinary proceedings against a Cassation Court judge and chamber chairman, as well as the Cassation Court chairman, and to file motions thereon to the Justice Council. "

**References:**

Disciplinary Committee of the Council of Justice (an independent body within the judiciary system).

National Assembly of the Republic of Armenia, 2007, Judicial Code of the Republic of Armenia, Article 106. <http://www.parliament.am/legislation.php?sel=show&ID=2966&lang=eng> (Accessed August 18, 2011).

**Yes:** A YES score is earned if there is a disciplinary agency (or equivalent mechanism) for the judicial system. A disciplinary agency is defined here as an agency or mechanism specifically mandated to investigate breaches of procedure, abuses of power or other failures of the judiciary. A YES score can still be earned if the judicial disciplinary agency (or mechanism) is internal to the judiciary.

**No:** A NO score is earned if no agency or mechanism is specifically mandated to act as a disciplinary mechanism for the national-level judiciary.

37d. In law, the judicial disciplinary agency (or equivalent mechanism) is protected from political interference.

Yes

No

**Comments:**

Judicial Code, Article 97: "The Justice Council is an independent body, which shall exercise its powers enshrined in the Constitution in accordance with the procedure stipulated by this code."

**References:**

National Assembly of the Republic of Armenia, 2007, Judicial Code of the Republic of Armenia, Chapter 13, Article 97, "The Justice Council and Its Powers". <http://www.parliament.am/legislation.php?sel=show&ID=2966&lang=eng> (Accessed August 18, 2011).

**Yes:** A YES score is earned if there are formal rules establishing that the judicial disciplinary agency (or equivalent mechanism) is protected from political interference by the executive and legislative branches.

**No:** A NO score is earned if there are no formal rules establishing the independence of the judicial disciplinary agency (or equivalent mechanism). A NO score is given if the judicial disciplinary agency or equivalent mechanism function is carried out by an executive ministry or legislative committee.

37e. In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) initiates investigations.

100

75

50

25

0

**Comments:**

According to Armen Mazmanyan: "The Disciplinary Committee of the Council of Justice does investigations. My impression is that it is not a very active body. It does things when there is a reason, for instance, in the case of a judge who is not 'wanted'."

**References:**

Armen Mazmanyan, 2011, "Functioning of judiciary in Armenia," assistant professor, programs director, Legal Resource Center, American University of Armenia. Place of interview: American University of Armenia, Yerevan, Armenia. Date of interview: September 30, 2011

**100:** The judicial disciplinary agency (or equivalent mechanism) aggressively starts investigations — or participates fully with cooperating agencies' investigations — into judicial misconduct. The judicial disciplinary agency (or equivalent mechanism) is fair in its application of this power.

**75:**

**50:** The judicial disciplinary agency (or equivalent mechanism) will start or cooperate in investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The judicial disciplinary agency (or equivalent mechanism), though limited in effectiveness, is still fair in its application of power.

**25:**

**0:** The judicial disciplinary agency (or equivalent mechanism) rarely investigates on its own or cooperates in other agencies' investigations, or the judicial disciplinary agency (or equivalent mechanism) is partisan in its application of this power.

37f. In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

**Comments:**

According to the Transparency International report, two prosecutors, four judges and 25 lawyers were punished or reprimanded during the study period. The opinions of experts show that they are skeptical of the system because money plays a predominant role and because there is a sense of internal solidarity that prevents sanctioning colleagues.

The ABA assessment is similar: According to its sources, some judges were not disciplined for committing the same offenses as others who were disciplined. Some expressed suspicion that judges are punished only pursuant to an "order from above."

**References:**

American Bar Association, 2008, Judicial Reform Index for Armenia Volume III, Washington, D.C. [http://apps.americanbar.org/rol/publications/armenia\\_judicial\\_reform\\_index\\_01\\_08\\_eng.pdf](http://apps.americanbar.org/rol/publications/armenia_judicial_reform_index_01_08_eng.pdf) (Accessed August 24, 2011).

Transparency International Anti-Corruption Center, 2011, European Neighborhood Policy: Monitoring Armenia's Anti-corruption Commitments, 2010, Yerevan, Armenia. <http://transparency.am/publication.php?id=41> (Accessed August 25, 2011).

**100:** When rules violations are discovered, the judicial disciplinary agency (or equivalent mechanism) is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.

**75:**

**50:** The judicial disciplinary agency (or equivalent mechanism) enforces rules, but is limited in its effectiveness. The judicial disciplinary agency (or equivalent mechanism) may be slow to act, unwilling to take on politically powerful offenders, resistant to cooperating with other agencies, or occasionally unable to enforce its judgments.

**25:**

0: The judicial disciplinary agency (or equivalent mechanism) does not effectively penalize offenders. The judicial disciplinary agency (or equivalent mechanism) may make judgments but not enforce them, does not cooperate with other agencies in enforcing penalties, or may fail to make reasonable judgments against offenders. The judicial disciplinary agency (or equivalent mechanism) may be partisan in its application of power.

## 38. Are there regulations governing conflicts of interest for the national-level judiciary?

29

38a. In law, members of the national-level judiciary are required to file an asset disclosure form.

Yes

No

### Comments:

Judicial Code, Article 96: "Judges and their relatives must file annual declarations of their income and assets, with copies sent to the Ethics Committee."

The State Revenue Committee Order lists judicial positions that submit declarations, including some top positions, such as members of the Constitutional Court, prosecutor general, judges and prosecutors of the courts.

### References:

National Assembly of the Republic of Armenia, 2007, Judicial Code of the Republic of Armenia, Article 96. <http://www.parliament.am/legislation.php?sel=show&ID=2966&lang=eng> (Accessed August 18, 2011).

State Revenue Committee of the Republic of Armenia, 2008, Order on the Approval of the Directive on "Submission of Declarations to a Superior Tax Body," Decision No. 18, approved on December 24, 2008. <http://www.arlis.am/> (Accessed August 17, 2011).

**Yes:** A YES score is earned if all members of the national-level judiciary are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

**No:** A NO score is earned if any member of the national-level judiciary is not required to publicly disclose assets.

38b. In law, there are regulations governing gifts and hospitality offered to members of the national-level judiciary.

Yes

No

### Comments:

The Judicial Code prohibits judges from accepting or agreeing to accept gifts, except for specified gifts unlikely to influence them (Articles 95.1 and 95.2).

### References:

National Assembly of the Republic of Armenia, 2007, Judicial Code of the Republic of Armenia, Article 95.1, Article 95.2. <http://www.parliament.am/legislation.php?sel=show&ID=2966&lang=eng> (Accessed August 18, 2011).

**Yes:** A YES score is earned if there are formal guidelines regulating gifts and hospitality for members of the national-level judiciary.

**No:** A NO score is earned if there are no guidelines or regulations with respect to gifts or hospitality offered to members of the national-level judiciary. A NO score is earned if the guidelines are general and do not specify what is and is not appropriate.

38c. In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national-level judiciary.

Yes | **No**

**Comments:**

Law on Declarations, Article 17.2, states that the Tax Service can launch an investigation in case of doubt. No independent audit is envisioned.

**References:**

National Assembly of the Republic of Armenia, 2006, Law of the Republic of Armenia on Declaration of Property and Income of Physical Persons, Article 17.2. <http://www.parliament.am/legislation.php?sel=show&ID=2731&lang=arm> (Accessed August 18, 2011).

**Yes:** A YES score is earned if there is a legal or regulatory requirement for independent auditing of national-level judiciary asset disclosures. The auditing is performed by an impartial third-party.

**No:** A NO score is earned if there are no legal or regulatory requirements for the independent auditing of national-level judiciary asset disclosures or if such requirements exist but allow for self-auditing.

38d. In law, there are restrictions for national-level judges entering the private sector after leaving the government.

Yes | **No**

**Comments:**

There are limitations on current but not future activities. The Constitution, Article 98, states that judges and members of the Constitutional Court may not be engaged in entrepreneurial activities nor may they hold an office in state and local self-government bodies or in commercial organizations not connected with their duties, as well as engage in any other paid occupation, except for scientific, pedagogical and creative work.

**References:**

Constitution of the Republic of Armenia, 2005, Article 98. <http://www.parliament.am/parliament.php?id=constitution&lang=eng>.

**Yes:** A YES score is earned if there are regulations restricting national-level judges' ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

**No:** A NO score is earned if no such restrictions exist.



38e. In practice, the regulations restricting post-government private sector employment for national-level judges are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

According to the interviewee, there are no such regulations in place. There is nothing to enforce.

**References:**

Anonymous civil servant. Date of interview: September 25, 2011. Place of interview: street cafe in Yerevan, Armenia.

**100:** The regulations restricting post-government private sector employment for national-level judges are uniformly enforced. There are no cases or few cases of judges taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate “cooling off” period.

**75:**

**50:** The regulations are generally enforced though some exceptions exist. In certain cases, judges are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

**25:**

**0:** The regulations are rarely or never enforced. Judges routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced. A zero score is also earned if judges are allowed to hold private sector jobs while serving on the bench.

38f. In practice, the regulations governing gifts and hospitality offered to members of the national-level judiciary are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

According to Armen Mazmanyan, the regulations are routinely bypassed, especially if we take into consideration offering money (i.e., corruption) as a type of “gift.”

The problem of corruption in the judiciary is also reflected in a number of international or local NGO studies, such as Transparency International or the American Bar Association report.

**References:**

Armen Mazmanyan, 2011, “Functioning of judiciary in Armenia,” assistant professor, programs director, Legal Resource Center, American University of Armenia. Place of interview: American University of Armenia, Yerevan, Armenia. Date of interview: September 30, 2011

Transparency International Anti-Corruption Center, 2011, European Neighborhood Policy: Monitoring Armenia’s Anti-corruption Commitments 2010, Yerevan, Armenia. <http://transparency.am/publication.php?id=41> (Accessed August 25, 2011).

American Bar Association, 2008, Judicial Reform Index for Armenia Volume III, Washington, D.C. [http://apps.americanbar.org/rol/publications/armenia\\_judicial\\_reform\\_index\\_01\\_08\\_eng.pdf](http://apps.americanbar.org/rol/publications/armenia_judicial_reform_index_01_08_eng.pdf) (Accessed August 24, 2011).

**100:** The regulations governing gifts and hospitality to members of the national-level judiciary are regularly enforced. Judges never or rarely accept gifts or hospitality above what is allowed.

**75:**

**50:** The regulations governing gifts and hospitality to members of the national-level judiciary are generally applied though exceptions exist. Some judges are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

**25:**

**0:** The regulations are rarely or never enforced. Judges routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

38g. In practice, national-level judiciary asset disclosures are audited.

100 | 75 | 50 | 25 | 0

**Comments:**

The civil servant explained that all asset declarations are collected by a separate department of the Tax Service of the State Revenue Committee, but that's where it stops. No analysis is being done; there is no audit.

**References:**

Anonymous civil servant. Date of interview: September 25, 2011. Place of interview: street cafe in Yerevan, Armenia

**100:** National-level judiciary asset disclosures are regularly audited using generally accepted auditing practices.

**75:**

**50:** National-level judiciary asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

**25:**

**0:** The regulations are rarely or never enforced. Judges routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

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### 39. Can citizens access the asset disclosure records of members of the national-level judiciary?

56

39a. In law, citizens can access the asset disclosure records of members of the national-level judiciary.

Yes | No

**Comments:**

According to Order No. 18 listed above, the members of the national level judiciary submit their asset disclosure forms to the Tax Service of the State Revenue Committee. These can be requested by citizens based on Freedom of Information Law, Article 6.

**References:**

State Revenue Committee of the Republic of Armenia, 2008, Order on the Approval of the Directive on “Submission of Declarations to a Superior Tax Body,” Order No. 18, approved on December 24, 2008. <http://www.arlis.am/> (Accessed August 17, 2011).

National Assembly of the Republic of Armenia, 2003, Law of the Republic of Armenia on Freedom of Information, Article 6, “Exercising the Right to Freedom of Information”. <http://www.parliament.am/legislation.php?sel=show&ID=1390&lang=eng> (Accessed August 16, 2011).

**Yes:** A YES score is earned if members of the national-level judiciary file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

**No:** A NO score is earned if there is no asset disclosure for members of the national-level judiciary. A NO score is earned if the form is filed, but not available to the public.

39b. In practice, citizens can access judicial asset disclosure records within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Interested NGOs, journalists or citizens can obtain the information, as the example above shows. However, the media story above also denotes some difficulties in obtaining the information — the judge himself refused to provide it and the State Revenue provided a “notice” rather than the full asset disclosure form.

Note: According to Armenian legislation (see the State Revenue Committee decision above), the information on asset disclosure forms can be requested within a specific time period, between August 1 and December 1. That is an additional restriction in terms of time frame. Nonetheless, thanks to the work of some NGOs and media, some general information on income of high level state officials is available online through the year.

**References:**

Grisha Balasanyan, 2010, Hetq Online: “Judges Salary Double, But Has Corruption on the Bench Decreased.” <http://old.hetq.am/en/court/taron-nazaryan/> (Accessed September 27, 2011).

State Revenue Committee of the Republic of Armenia, 2008, Order on the Approval of the Directive on “Submission of Declarations to a Superior Tax Body,” Appendix 2, Point 5. <http://www.arlis.am/> (Accessed August 17, 2011).

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

39c. In practice, citizens can access judicial asset disclosure records at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Interested journalists can obtain the information and make it publicly available online, although sometimes several attempts are needed, as the story above demonstrates.

**References:**

Grisha Balasanyan, 2010, Hetq Online: "Judges Salary Double, But Has Corruption on the Bench Decreased." <http://old.hetq.am/en/court/taron-nazaryan/> (Accessed September 27, 2011).

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

39d. In practice, the asset disclosure records of the national-level judiciary are of high quality.

100 | 75 | 50 | 25 | 0

**Comments:**

The information obtained by the journalist in the story above renders itself to some useful analysis; however, the journalist was not able to obtain detailed, high-quality information.

**References:**

Grisha Balasanyan, 2010, Hetq Online: "Judges Salary Double, But Has Corruption on the Bench Decreased." <http://old.hetq.am/en/court/taron-nazaryan/> (Accessed September 27, 2011).

**100:** The asset disclosure records of the national-level judiciary are complete and detailed, providing the public with an accurate and updated accounting of the individuals' sources of income, investments, and other financial interests.

**75:**

**50:** The asset disclosure records of the national-level judiciary contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

25:

0: The asset disclosure records of the national-level judiciary are overly general, lack any meaningful detail, and do not provide a clear accounting of the individuals' sources of income, investments, and other financial assets.

### 3.4. Budget Process Oversight & Transparency

#### 40. Can the legislature provide input to the national budget?

75

40a. In law, the legislature can amend the budget.

Yes

No

**Comments:**

The Law on Budget, Article 23.3, states: "Amendments to the parliament-approved state budget law can be made upon the proposal of National Assembly members or the Cabinet presented as a legislative initiative. The amendments to the state budget which imply reduction of budget revenues and (or) increase of budget expenditures can be discussed by the National Assembly only if there is a relevant conclusion of the Cabinet, and are adopted by the majority vote of the total number of deputies."

Law Rules of Procedure of the National Assembly: Chapter 10 details the procedures that include several rounds of discussion in the National Assembly with possibilities envisioned for NA members and factions to propose changes to the budget, as well as the final adoption of the budget.

**References:**

National Assembly of the Republic of Armenia, 1997, Law of the Republic of Armenia on the Budgetary System of the Republic of Armenia, Article 23, "Implementation of the State Budget." Section 3. <http://www.parliament.am/legislation.php?sel=show&ID=1503&lang=eng> (Accessed August 18, 2011).

National Assembly of the Republic of Armenia. 2002. Law of the Republic of Armenia Rules of Procedure of the National Assembly. <http://www.parliament.am/legislation.php?sel=show&ID=38&lang=eng> (Accessed August 18, 2011). Chapter 10, "Consideration and Approval of the State Budget"

**Yes:** A YES score is earned if the legislature has the power to add or remove items to the national government budget.

**No:** A NO score is earned if the legislature can only approve but not change details of the budget. A NO score is earned if the legislature has no input into the budget process.

40b. In practice, significant public expenditures require legislative approval.

100

75

50

25

0

**Comments:**

According to Arthur Drampian: All items are subject to discussion, even defense expenditures, with proper attention paid to classified information. The process of budget deliberations within 90 days allocated for it is quite scrupulous and contains back and forths between parliament and government. Major things do not change in any country, because in many cases the budget is incremental and every year it is possible to talk about 5 percent to 10 percent changes in any budget item.

**References:**

Arthur Drampian, 2011, "Armenian Budgetary Processes," American University of Armenia, adjunct senior lecturer, Counterpart International, local government program director. Place of interview: Yerevan, Armenia. Date of Interview: Sept. 13, 2011.

**100:** All significant government expenditures (defined as any project costing more than 1% of the total national budget), must be approved by the legislature. This includes defense and secret programs, which may be debated in closed hearings.

**75:**

**50:** Most significant government expenditures (as defined) are approved by the legislature, but some exceptions to this rule exist. This may include defense programs, an executive's personal budget, or other expenses.

**25:**

**0:** The legislature does not have the power to approve or disapprove large portions of the government budget, or the legislature does not exercise this power in a meaningful way.

40c. In practice, the legislature has sufficient capacity to monitor the budget process and provide input or changes.

100 | 75 | **50** | 25 | 0

**Comments:**

Arthur Drampian's answer to the question, "Can the legislature provide input to the national budget?": More or less. The professional capacity of the National Assembly is weaker than in government.

**References:**

Arthur Drampian, 2011, "Armenian Budgetary Processes," American University of Armenia, adjunct senior lecturer, Counterpart International, local government program director. Place of interview: Yerevan, Armenia. Date of Interview: Sept. 13, 2011.

**100:** Legislators benefit from a sufficient and qualified staff as well as adequate financial and physical resources. Lack of capacity is never a reason why legislators cannot carry out their duties effectively.

**75:**

**50:** Legislators have some staff and financial resources but are limited by a shortfall of resources to adequately perform all of their budgetary oversight functions. Legislators are occasionally overwhelmed by the volume of work to be performed.

**25:**

**0:** Legislators have little to no staff and virtually no financial resources with which to perform their budgetary oversight role. Lack of resources is a regular and systemic problem that cripples the performance of the legislature.

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#### 41. Can citizens access the national budgetary process?

41a. In practice, the national budgetary process is conducted in a transparent manner in the debating stage (i.e. before final approval).

100 | 75 | 50 | 25 | 0

**Comments:**

According to Arthur Drampian: The debate process is transparent; all sessions transcripts are available on the National Assembly website. Only classified information is debated behind closed doors.

**References:**

Arthur Drampian, 2011, "Armenian Budgetary Processes," American University of Armenia, adjunct senior lecturer, Counterpart International, local government program director. Place of interview: Yerevan, Armenia. Date of Interview: Sept. 13, 2011.

**100:** Budget debates are public and records of these proceedings are easily accessible. Authors of individual budget items can easily be identified. Nearly all budget negotiations are conducted in these official proceedings.

**75:**

**50:** There is a formal, transparent process for budget debate, but major budget modifications may be negotiated in separate, closed sessions. Some items, such as non-secret defense projects, may be negotiated in closed sessions. Authors of individual line items may be difficult to identify.

**25:**

**0:** Budget negotiations are effectively closed to the public. There may be a formal, transparent process, but most real discussion and debate happens in other, closed settings.

41b. In practice, citizens provide input at budget hearings.

100 | 75 | 50 | 25 | 0

**Comments:**

According to Arthur Drampian: Formally, citizens can participate at state budget hearings. In reality, they don't have a chance to speak. However, they can send their comments and suggestions to standing committees and communicate with members of Parliament through the network of civil society organizations.

**References:**

Arthur Drampian, 2011, "Armenian Budgetary Processes," American University of Armenia, adjunct senior lecturer, Counterpart International, local government program director. Place of interview: Yerevan, Armenia. Date of Interview: Sept. 13, 2011.

**100:** Citizens, usually acting through NGOs, can provide information or commentary to the budget debate through a formal process. This information is essential to the process of evaluating budget priorities.

**75:**

**50:** Citizens or NGOs can provide input, but this information is often not relevant to budget decisions.

25:

0: Citizens or NGOs have no formal access to provide input to the budget debate.

41c. In practice, citizens can access itemized budget allocations.

100 | 75 | 50 | 25 | 0

**Comments:**

According to Arthur Drampian: After approval by parliament, the state budget is published in two heavy volumes, which contain pretty much the details and breakdown of expenditures by ministries, agencies and programs.

There also is an electronic governance state web portal, which provides a number of online services, including an interactive budget that shows allocations and what is already spent in each category. It has a breakdown of two to three steps. See the media report by Abrahamyan and the following webpage: <https://www.e-gov.am/interactive-budget/>

**References:**

Arthur Drampian, 2011, "Armenian Budgetary Processes," American University of Armenia, adjunct senior lecturer, Counterpart International, local government program director. Place of interview: Yerevan, Armenia. Date of Interview: Sept. 13, 2011.

Gayane Abrahamyan, 2010, "E-Novation: Armenian Prime Minister Introduces E-Government." ArmeniaNow.com. [http://www.armenianow.com/social/21347/armenian\\_electronic\\_government](http://www.armenianow.com/social/21347/armenian_electronic_government) (Accessed September 12, 2011).

100: Citizens, journalists and NGOs can access itemized lists of budget allocations. This information is easily available and up to date.

75:

50: Citizens, journalists and NGOs can access itemized lists of budget allocations but this information may be difficult to access, incomplete or out of date.

25:

0: Citizens cannot access an itemized list of budget allocations, due to secrecy, prohibitive barriers or government inefficiency.

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42. In law, is there a separate legislative committee which provides oversight of public funds?

100

42a. In law, is there a separate legislative committee which provides oversight of public funds?

Yes | No

**Comments:**

According to the Law on Budget, Article 24: The supervision over state budget implementation is exercised by the National Assembly. The National Assembly exercises supervision over:

a) compliance with the requirements of this law and the state budget law currently in effect.



- b) the use of credits and loans received from foreign countries and international organizations.
- c) fulfillment of budget liabilities, legitimacy of budget spending, and observance of payroll estimation regulations.

Law on National Assembly procedures, Article 21, stipulates that there is a standing committee on Financial-Credit and Budgetary Affairs with the following spheres of activities related to budget: budgetary legislation and the state budget.

#### References:

Standing Committee on Financial-Credit and Budgetary Affairs

National Assembly of the Republic of Armenia, 1997, Law of the Republic of Armenia on the Budgetary System of the Republic of Armenia, Article 24, "Control and Supervision over the Process of State Budget Implementation." Sections 2-3. <http://www.parliament.am/legislation.php?sel=show&ID=1503&lang=eng> (Accessed August 18, 2011).

National Assembly of the Republic of Armenia, 2002, Law of the Republic of Armenia Rules of Procedure of the National Assembly, Article 21, "Standing committees and their activities". <http://www.parliament.am/legislation.php?sel=show&ID=38&lang=eng> (Accessed August 18, 2011).

**Yes:** A YES score is earned if there is a dedicated legislative committee (or equivalent group located in the legislature) that oversees the expenditure of public funds.

**No:** A NO score is earned if no such body exists within the legislature. A NO score is earned if there is a body executing this function but it is not part of the legislature (such as a separate supreme audit institution).

### 43. Is the legislative committee overseeing the expenditure of public funds effective?

33

43a. In practice, department heads regularly submit reports to this committee.

100 | 75 | 50 | 25 | 0

#### Comments:

According to Arthur Drampian: I have no information on department heads submitting reports to the National Assembly standing committee. The government reports on budget execution once a year according to National Assembly rules and procedures.

#### References:

Arthur Drampian, 2011, "Armenian Budgetary Processes," American University of Armenia, adjunct senior lecturer, Counterpart International, local government program director. Place of interview: Yerevan, Armenia. Date of Interview: Sept. 13, 2011.

**100:** Heads of ministry- or cabinet-level agencies submit regular, formal reports of expenses to a budget oversight committee.

**75:**

**50:** Agency heads submit reports to a budget oversight committee, but these reports are flawed in some way. The reports may be inconsistently delivered, or lacking important details.

**25:**

**0:** There is no budget oversight committee or equivalent, or heads of agencies do not submit meaningful reports to the agency.

43b. In practice, the committee acts in a non-partisan manner with members of opposition parties serving on the committee in an equitable fashion.

100 | 75 | 50 | 25 | 0

**Comments:**

According to Arthur Drampian: The mentioned committee includes members of different, mainly ruling, parties, except one ARF and one Heritage member. They have equal chances to participate.

**References:**

Arthur Drampian, 2011, "Armenian Budgetary Processes," American University of Armenia, adjunct senior lecturer, Counterpart International, local government program director. Place of interview: Yerevan, Armenia. Date of Interview: Sept. 13, 2011.

**100:** The committee is comprised of legislators from both the ruling party (or parties) and opposition parties in a roughly equitable distribution. All members of the committee — including opposition party members — are able to fully participate in the activities of the committee and influence the committee's work to roughly the same extent as any other member of the committee.

**75:**

**50:** The committee is comprised of legislators from both the ruling party (or parties) and opposition parties although the ruling party has a disproportionate share of committee seats. The chairperson of the committee may be overly influential and curb other members' ability to shape the committee's activities.

**25:**

**0:** The committee is dominated by legislators of the ruling party and/or the committee chairperson. Opposition legislators serving on the committee have in practice no way to influence the work of the committee.

43c. In practice, when necessary, this committee initiates independent investigations into financial irregularities.

100 | 75 | 50 | 25 | 0

**Comments:**

Is the legislative committee overseeing the expenditure of public funds effective? According to Arthur Drampian: More or less, the same way as any other standing committee can do it.

**References:**

Arthur Drampian, 2011, "Armenian Budgetary Processes," American University of Armenia, adjunct senior lecturer, Counterpart International, local government program director. Place of interview: Yerevan, Armenia. Date of Interview: Sept. 13, 2011.

**100:** When irregularities are discovered, the committee is aggressive in investigating the government.

**75:**

**50:** The committee starts investigations, but is limited in its effectiveness. The committee may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The committee does not effectively investigate financial irregularities. The committee may start investigations but not complete them, or may fail to detect offenders. The committee may be partisan in its application of power.

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## Category 4. Public Administration and Professionalism

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### 4.1. <sup>59</sup>Civil Service: Conflicts of Interest Safeguards and Political Independence

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44. Are there national regulations for the civil service encompassing, at least, the managerial and professional staff?

100

44a. In law, there are regulations requiring an impartial, independent and fairly managed civil service.

Yes

No

**Comments:**

Civil Service Law stipulates that civil servants are appointed through open competition (Articles 14 and 15) and promoted through attestation (Article 19). Article 14 provides that competition for the highest and senior vacant civil service positions is to be organized by the Civil Service Council staff, while competition for the leading and junior positions is conducted by the staff of the corresponding bodies. The competition consists of a test and an interview. Attestation is mandatory every three years. Article 24 lists restrictions applied to the civil servant, stating that he/she cannot be engaged in entrepreneurial activities, use his/her position to benefit party or NGO interests, etc.

**References:**

National Assembly of the Republic of Armenia, 2001, Law of the Republic of Armenia on Civil Service, Articles 14, 15, 19, 24. <http://www.parliament.am/legislation.php?sel=show&ID=1268&lang=eng> (Accessed August 18, 2011).

**Yes:** A YES score is earned if there are specific formal rules establishing that the civil service carry out its duties independent of political interference.

**No:** A NO score is earned if there are no formal rules establishing an independent civil service.

44b. In law, there are regulations to prevent nepotism, cronyism, and patronage within the civil service.

Yes | No

**Comments:**

The Civil Service Law, Articles 14, 15 and 19, set the rules for recruitment (through open competition for vacant positions) and attestation of civil servants. The Civil Service Council is responsible for protecting civil servants against arbitrary dismissals and political interference (Articles 32 and 37).

Article 24.3: "It is forbidden to the civil servant to work together with close relatives or in-laws (parent, spouse, child, brother, sister, spouse's parent, child, brother and sister), if their service is connected with direct subordination to or supervision over one another (applicable to all levels)."

**References:**

National Assembly of the Republic of Armenia, 2001, Law of the Republic of Armenia on Civil Service, Articles 14, 15, 19, 24, 32, 37. <http://www.parliament.am/legislation.php?sel=show&ID=1268&lang=eng> (Accessed August 18, 2011).

**Yes:** A YES score is earned if there are specific formal rules prohibiting nepotism, cronyism, and patronage in the civil service. These should include competitive recruitment and promotion procedures as well as safeguards against arbitrary disciplinary actions and dismissal.

**No:** A NO score is earned if no such regulations exist.

44c. In law, there is an independent redress mechanism for the civil service.

Yes | No

**Comments:**

The civil servant's right of appeal is guaranteed by the Civil Service Law, Article 22, "The Principal Rights of the Civil Servant," Point K. Article 35 envisions appeal through a judicial procedure.

**References:**

Appeal to judiciary or appeal to Civil Service Council.

National Assembly of the Republic of Armenia, 2001, Law of the Republic of Armenia on Civil Service, Articles 22 and 35. <http://www.parliament.am/legislation.php?sel=show&ID=1268&lang=eng> (Accessed August 18, 2011).

**Yes:** A YES score is earned if there is a mechanism to which civil servants and applicants for the civil service can take grievances regarding civil service management actions. The mechanism should be independent of their supervisors but can still be located within the government agency or entity (such as a special commission or board). Civil servants are able to appeal the mechanism's decisions to the judiciary.

**No:** A NO score is earned if no such mechanism exists, or if the only recourse civil servants have is directly through the courts.

44d. In law, civil servants convicted of corruption are prohibited from future government employment.

Yes | No

**Comments:**

The Civil Service Law, Article 12 mentions a person who “has been sentenced for a crime and whose criminal record has not been removed or cleared by the prescribed procedure.” Since most corruption-related activities are defined as a crime in Armenia, then people convicted of such crimes are not eligible for public service.

**References:**

National Assembly of the Republic of Armenia, 2001, Law of the Republic of Armenia on Civil Service, Article 12, “The Person Having No Right to Occupy the Civil Service Position”. <http://www.parliament.am/legislation.php?sel=show&ID=1268&lang=eng> (Accessed August 18, 2011).

**Yes:** A YES score is earned if there are specific rules prohibiting continued government employment following a corruption conviction.

**No:** A NO score is earned if no such rules exist or if the ban is not a lifetime ban.

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## 45. Is the law governing the administration and civil service effective?

33

45a. In practice, civil servants are protected from political interference.

100 | 75 | 50 | 25 | 0

**Comments:**

Transparency International reports that the mechanism for protecting civil servants from arbitrary hiring is not specific enough, while the practice of forcing civil servants to apply for dismissal upon their own request is widespread.

The news report cited above presents an interview with Manvel Badalyan, chairman of the State Council on Civil Service, who speaks about pressure on civil servants to display a political affiliation. Civil servants are still often forced to join one of Armenia's three governing parties or do so in order to please their bosses, who are affiliated with those parties.

**References:**

Transparency International Anti-Corruption Center, 2011, European Neighbourhood Policy: Monitoring Armenia's Anti-corruption Commitments 2010, Yerevan, Armenia. <http://transparency.am/publication.php?id=41> (Accessed August 25, 2011).

Radio Free Europe Radio Liberty, 2011. “Armenian Civil Service ‘Still Under Patronage Pressure’ “. [http://www.rferl.org/content/armenia\\_civil\\_service\\_still\\_under\\_patronage\\_pressure/24321268.html](http://www.rferl.org/content/armenia_civil_service_still_under_patronage_pressure/24321268.html) (Accessed September 29, 2011).

**100:** Civil servants operate independently of the political process, without incentive or pressure to render favorable treatment or policy decisions on politically sensitive issues. Civil servants rarely comment on political debates. Individual judgments are rarely praised or criticized by political figures. Civil servants can bring a case to the courts challenging politically-motivated firings.

**75:**

**50:** Civil servants are typically independent, yet are sometimes influenced in their judgments by negative or positive political or personal incentives. This may include favorable or unfavorable treatment by superiors, public criticism or praise by the

government, or other forms of influence. Civil servants may bring a case to the judicial system challenging politically-motivated firings but the case may encounter delays or bureaucratic hurdles.

**25:**

**0:** Civil servants are commonly influenced by political or personal matters. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. Civil servants are unable to find a remedy in the courts for unjustified or politically-motivated firings.

45b. In practice, civil servants are appointed and evaluated according to professional criteria.

100 | 75 | 50 | 25 | 0

**Comments:**

Transparency International's report quotes experts who say that the Civil Service Council 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. The pressure is not only political; the pressure from relatives and friends is as present as political pressure.

The TI report also notes that 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 favors to colleagues or superiors, rather than professional or institutional interest, that matter when appointing or promoting civil servants.

**References:**

Transparency International Anti-Corruption Center, 2011, European Neighborhood Policy: Monitoring Armenia's Anti-corruption Commitments 2010, Yerevan, Armenia. <http://transparency.am/publication.php?id=41> (Accessed August 25, 2011).

**100:** Appointments to the civil service and their professional evaluations are made based on professional qualifications. Individuals appointed are free of conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments and professional assessments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

**25:**

**0:** Appointments and professional assessments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

45c. In practice, civil service management actions (e.g. hiring, firing, promotions) are not based on nepotism, cronyism, or patronage.

100 | 75 | 50 | 25 | 0

**Comments:**

The online article by Radio Liberty quotes the chairman of the State Council on Civil Service, Manvel Badalyan speaking of

problems in the sphere of civil service recruitment. Particularly, Badalyan said most pressure for jobs comes from friends, neighbors, relatives and classmates. “Recently we had an unpleasant case — unfortunately such cases are not rare — where representatives of a particular ministry made every effort to make one candidate pass the tests because that’s what was instructed by their minister or a regional governor.” Badalyan also speaks about pressure on civil servants to display a political affiliation. Civil servants are still often forced to join one of Armenia’s three governing parties or do so in order to please their bosses, who are affiliated with those parties.

The article by Grisha Balasanyan provides evidence that many of the support staff working for parliamentarians are their relatives and family members. A few telling quotes from the members of Parliament themselves show that this situation is viewed as perfectly normal. MPs do not admit that there could be a conflict of interest or that these “appointments” are far from being merit based.

Strictly speaking, this is not civil service; however, those working for MPs hold a position of public responsibility.

#### References:

Radio Free Europe Radio Liberty, 2011, “Armenian Civil Service ‘Still Under Patronage Pressure’.” [http://www.rferl.org/content/armenia\\_civil\\_service\\_still\\_under\\_patronage\\_pressure/24321268.html](http://www.rferl.org/content/armenia_civil_service_still_under_patronage_pressure/24321268.html) (Accessed September 29, 2011).

Grisha Balasanyan, 2011, Hetq Online: “Nepotism? – MPs Hire Their Children as Assistants.” <http://hetq.am/eng/articles/2278/nepotism?—mps-hire-their-children-as-assistants.html> (Accessed September 10, 2011).

**100:** Nepotism (favorable treatment of family members), cronyism (favorable treatment of friends and colleagues), and patronage (favorable treatment of those who reward their superiors) are actively discouraged at all levels of the civil service. Hirings, firings, and promotions are based on merit and performance.

**75:**

**50:** Nepotism, cronyism, and patronage are discouraged, but exceptions exist. Political leaders or senior officials sometimes appoint family member or friends to favorable positions in the civil service, or lend other favorable treatment.

**25:**

**0:** Nepotism, cronyism, and patronage are commonly accepted principles in hiring, firing and promotions of civil servants.

45d. In practice, civil servants have clear job descriptions.

100 | 75 | 50 | 25 | 0

#### Comments:

According to the civil servant interviewed, the job descriptions are fairly clear and detailed. Job descriptions for civil servants have been implemented relatively recently.

#### References:

Anonymous civil servant. Date of interview: September 25, 2011. Place of interview: street cafe in Yerevan, Armenia.

The OECD Anti-Bribery Convention, 2011, Armenia Monitoring Report, OECD Anti-Corruption Network for Eastern Europe and Central Asia Istanbul Anti-Corruption Action Plan. <http://www.oecd.org/dataoecd/38/51/48964985.pdf> (Accessed November 20, 2011).

**100:** Civil servants almost always have formal job descriptions establishing levels of seniority, assigned functions, and compensation. Job descriptions are a reliable representation of positions in terms of a person’s authority, responsibility and base pay.

**75:**

**50:** Civil servants often have formal job descriptions, but exceptions exist. Some civil servants may not be part of the formal assignment of duties and compensations. Some job descriptions may not map clearly to pay or responsibilities in some cases.

**25:**

**0:** Civil servants do not have formal roles or job descriptions. If they do, such job descriptions have little or nothing to do with the position's responsibilities, authority, or pay.

45e. In practice, civil servant bonuses constitute only a small fraction of total pay.

100 | 75 | **50** | 25 | 0

#### Comments:

According to the interviewee, in most departments civil servants just have their salaries. In some departments, however (for example, in the State Revenue Department), the employees get a monthly premium, which is equal to their salary. This is an informal way to double the salary, which is not that big anyway and would not allow the civil servant to live a decent life.

Armenian civil service lacks even the most basic fringe benefits. Civil servants have a salary that is significantly lower than what people are being paid in the business sector (see OECD report added to the sources sector above). There is currently a draft civil servant salary reform that envisions a social package for civil servants that would allow them to purchase health insurance, pay for education and holidays, or repay mortgage loans. This is a new development, reflected in the news stories cited above.

#### References:

Anonymous civil servant. Date of interview: September 25, 2011. Place of interview: street cafe in Yerevan, Armenia.

OECD, 2011, Armenia Monitoring Report, OECD Anti-Corruption Network for Eastern Europe and Central Asia Istanbul Anti-Corruption Action Plan. <http://www.oecd.org/dataoecd/38/51/48964985.pdf> (Accessed November 20, 2011).

<http://www.panarmenian.net/eng/news/79576/>

[http://arka.am/en/news/economy/28886/?sphrase\\_id=1664](http://arka.am/en/news/economy/28886/?sphrase_id=1664)

**100:** Civil servant bonuses constitute no more than 10% of total pay and do not represent a major element of take-home pay.

**75:**

**50:** Civil servant bonuses are generally a small percentage of total take-home pay for most civil servants though exceptions exist where some civil servants' bonuses represent a significant part of total pay.

**25:**

**0:** Most civil servants receive bonuses that represent a significant amount of total take-home pay. In some cases bonuses represent the majority of total pay to civil servants.

45f. In practice, the government publishes the number of authorized civil service positions along with the number of positions actually filled.

100 | 75 | **50** | 25 | 0



**Comments:**

Some vacancies are published online on the Civil Service Council website. There is no information on the list of authorized civil service positions.

**References:**

Civil Service Council of the Republic of Armenia. [http://www.cscouncil.am/index\\_eng.asp](http://www.cscouncil.am/index_eng.asp) (Accessed September 29, 2011).

**100:** The government publishes such a list on a regular basis.

**75:**

**50:** The government publishes such a list but it is often delayed or incomplete. There may be multiple years in between each successive publication.

**25:**

**0:** The government rarely or never publishes such a list, or when it does it is wholly incomplete.

45g. In practice, the independent redress mechanism for the civil service is effective.

100 | 75 | 50 | 25 | 0

**Comments:**

Civil servants can appeal to the Civil Service Council and through the judiciary. The first has some independence but is under pressure, as the online article cited above demonstrates. It quotes the head of the Civil Service Council, who stated in an interview that "ministers and other top government officials continue to lobby for appointments and other jobs for people connected to them or their political parties."

The second way, the judiciary, is unlikely to be very effective and nonpartisan, either, as the Armenian judiciary system is characterized as partisan by many sources, some of which are listed above.

**References:**

Radio Free Europe Radio Liberty, 2011, "Armenian Civil Service 'Still Under Patronage Pressure'." [http://www.rferl.org/content/armenia\\_civil\\_service\\_still\\_under\\_patronage\\_pressure/24321268.html](http://www.rferl.org/content/armenia_civil_service_still_under_patronage_pressure/24321268.html) (Accessed September 29, 2011).

Freedom House, "Armenia 2011: Freedom in the World." <http://www.freedomhouse.org/> (Accessed September 19, 2011).

Bertelsmann Stiftung, 2009, BTI 2010 — Armenia Country Report, Gütersloh: Bertelsmann Stiftung. <http://www.bertelsmann-transformation-index.de/148.0.html?&L=1> (Accessed August 22, 2011).

**100:** The independent redress mechanism for the civil service can control the timing and pace of its investigations without any input from the bodies that manage civil servants on a day-to-day basis.

**75:**

**50:** The independent civil service redress mechanism can generally decide what to investigate and when but is sometimes subject to pressure from the executive or the bodies that manage civil servants on a day-to-day basis on politically sensitive issues.

**25:**

**0:** The civil service redress mechanism must rely on approval from the executive or the bodies that manage civil servants on a day-to-day basis before initiating investigations. Politically sensitive investigations are almost impossible to move forward on.

45h. In practice, in the past year, the government has paid civil servants on time.

100 | 75 | 50 | 25 | 0

**Comments:**

The government pays its employees on time.

Just like the issue of job description, timeliness of pay is not a focus of any of the reports reviewed, neither is it a topic for news. It does not seem to be a problem. What is being discussed is the low level of salaries. The most recent OECD report (added to the sources section above) makes a recommendation to make the salaries more competitive in relation to the non-governmental sector.

**References:**

Anonymous civil servant. Date of interview: September 25, 2011. Place of interview: street cafe in Yerevan, Armenia.

OECD, 2011, Armenia Monitoring Report, OECD Anti-Corruption Network for Eastern Europe and Central Asia Istanbul Anti-Corruption Action Plan. <http://www.oecd.org/dataoecd/38/51/48964985.pdf> (Accessed November 20, 2011).

**100:** In the past year, no civil servants have been paid late.

**75:**

**50:** In the past year, some civil servants have been paid late.

**25:**

**0:** In the past year, civil servants have frequently been denied due pay.

45i. In practice, civil servants convicted of corruption are prohibited from future government employment.

100 | 75 | 50 | 25 | 0

**Comments:**

There is no system of prohibition of employment for those convicted of corruption. Civil Service Law, Article 12, only mentions a person who "has been sentenced for a crime and whose criminal record has not been removed or cleared by the prescribed procedure."

**References:**

National Assembly of the Republic of Armenia, 2001, Law of the Republic of Armenia on Civil Service, Article 12, "The Person Having No Right to Occupy the Civil Service Position". <http://www.parliament.am/legislation.php?sel=show&ID=1268&lang=eng> (Accessed August 18, 2011).

**100:** A system of formal blacklists and cooling off periods is in place for civil servants convicted of corruption. All civil servants are subject to this system.

**75:**

**50:** A system of formal blacklists and cooling off periods is in place, but the system has flaws. Some civil servants may not be affected by the system, or the prohibitions are sometimes not effective. Some bans are only temporary.

**25:**

**0:** There is no such system, or the system is consistently ineffective in prohibiting future employment of convicted civil servants.

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## 46. Are there regulations addressing conflicts of interest for civil servants?

33

46a. In law, senior members of the civil service are required to file an asset disclosure form.

Yes

No

### Comments:

Law on Declaration of Property and Income of Physical Persons: Declaration of assets and income is mandatory for the Republic of Armenia civil servants, according to Article 5, Section 2.1.

### References:

National Assembly of the Republic of Armenia, 2006, Law of the Republic of Armenia on Declaration of Property and Income of Physical Persons, Article 5. <http://www.parliament.am/legislation.php?sel=show&ID=2731&lang=arm> (Accessed August 18, 2011).

**Yes:** A YES score is earned if senior members of the civil service are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

**No:** A NO score is earned if any senior member of the civil service is not required to disclose assets.

46b. In law, there are requirements for civil servants to recuse themselves from policy decisions where their personal interests may be affected.

Yes

No

### Comments:

There are regulations for a specific case of public procurement employees (Procurement Law) and for higher-level state officials in the most recent Public Service Law, but there are no specific regulations for civil servants. This information was confirmed by an interview with a civil servant.

**References:**

National Assembly of the Republic of Armenia, 2001, Law of the Republic of Armenia on Civil Service. <http://www.parliament.am/legislation.php?sel=show&ID=1268&lang=eng> (Accessed August 18, 2011).

National Assembly of the Republic of Armenia, 2010, Law of the Republic of Armenia on Procurement. <http://www.parliament.am/legislation.php?sel=show&ID=3985&lang=arm> (Accessed August 18, 2011).

National Assembly of the Republic of Armenia, 2011, Law of the Republic of Armenia on Public Service. <http://www.parliament.am/legislation.php?sel=show&ID=4225&lang=arm#6> (Accessed August 18, 2011).

**Yes:** A YES score is earned if there are requirements for civil servants to recuse themselves from policy decisions where their personal interests, including personal financial interests as well as those of their family and friends, are affected.

**No:** A NO score exists if no such requirements exist in regulation or law.

46c. In law, there are restrictions for civil servants entering the private sector after leaving the government.

Yes | No

**Comments:**

Law on Civil Service, Article 24.4: "The civil servant shall not have the right to become employed by an employer or become an employee of an organization over which he/she had implemented immediate control for the last year of holding the civil service position within a period of one year after his/her release from the civil service position."

**References:**

National Assembly of the Republic of Armenia, 2001, Law of the Republic of Armenia on Civil Service, Article 24, "Restrictions applied to the Civil Servant." Section 4. <http://www.parliament.am/legislation.php?sel=show&ID=1268&lang=eng> (Accessed August 18, 2011).

**Yes:** A YES score is earned if there are regulations restricting civil servants' ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

**No:** A NO score is earned if no such restrictions exist.

46d. In law, there are regulations governing gifts and hospitality offered to civil servants.

Yes | No

**Comments:**

Law on Civil Service, Article 24: "Civil servants cannot receive gifts, money or services for performing their service duties as representatives of the state."

**References:**

National Assembly of the Republic of Armenia, 2001, Law of the Republic of Armenia on Civil Service, Article 24, "Restrictions applied to the Civil Servant". <http://www.parliament.am/legislation.php?sel=show&ID=1268&lang=eng> (Accessed August 18, 2011).

**Yes:** A YES score is earned if there are formal guidelines regarding gifts and hospitality given to civil servants.

**No:** A NO score is earned if there are no such guidelines or regulations.

46e. In law, there are requirements for the independent auditing of the asset disclosure forms of senior members of the civil service.

Yes | **No**

**Comments:**

Law on Declaration, Article 17, provides that to verify the reliability of the data presented in the declaration, the Tax Service (under the Republic of Armenia State Revenue Committee) can perform a study at the site of the other party of the transaction. The Tax Service is part of the executive branch, hence it does not qualify as an impartial third party. Also, there are no provisions for a systematic or random auditing, just an investigation that the Tax Service can perform if it considers that necessary.

**References:**

National Assembly of the Republic of Armenia, 2006, Law of the Republic of Armenia on Declaration of Property and Income of Physical Persons, Article 17. <http://www.parliament.am/legislation.php?sel=show&ID=2731&lang=arm> (Accessed August 18, 2011).

**Yes:** A YES score is earned if there is a legal or regulatory requirement for independent auditing of civil service asset disclosures. The auditing is performed by an impartial third-party.

**No:** A NO score is earned if there are no legal or regulatory requirements for the independent auditing of civil service asset disclosures or if such requirements exist but allow for self-auditing.

46f. In practice, the regulations restricting post-government private sector employment for civil servants are effective.

100 | 75 | 50 | 25 | **0**

**Comments:**

According to the civil servant, although there are some restrictions for civil servants (unlike the case for the executive branch and the parliament members), these are not present in people's minds and as a consequence, not enforced. The institute of civil service is relatively new for Armenia.

The topic of a "coalescence" of business and government (when current/past government officials are running businesses and/or businessmen seek to become government officials to improve their business opportunities) is often discussed in the media. Unfortunately, distinctions between civil servants, public servants and holders of political offices are often blurred in media reports. Below are some links (in Armenian):

<http://www.aravot.am/2011/11/11/5202/>  
<http://www.armtimes.com/27519>  
<http://www.aravot.am/2011/11/11/5206/>

**References:**

Anonymous civil servant. Date of interview: September 25, 2011. Place of interview: street cafe in Yerevan, Armenia.

**100:** The regulations restricting post-government private sector employment for civil servants are uniformly enforced. There are no cases or few cases of civil servants taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate “cooling off” period.

**75:**

**50:** The regulations are generally enforced though some exceptions exist. In certain sectors, civil servants are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

**25:**

**0:** The regulations are rarely or never enforced. Civil servants routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

46g. In practice, the regulations governing gifts and hospitality offered to civil servants are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

According to the Transparency International report, there is a common understanding among experts that regulations on ethics and conflicts of interest defined by the Republic of Armenia 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.

**References:**

Transparency International Anti-Corruption Center, 2011, European Neighborhood Policy: Monitoring Armenia’s Anti-corruption Commitments 2010, Yerevan, Armenia. <http://transparency.am/publication.php?id=41> (Accessed August 25, 2011).

**100:** The regulations governing gifts and hospitality to civil servants are regularly enforced. Civil servants never or rarely accept gifts or hospitality above what is allowed.

**75:**

**50:** The regulations governing gifts and hospitality to civil servants are generally applied though exceptions exist. Some civil servants in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

**25:**

**0:** The regulations governing gifts and hospitality to the civil service are routinely ignored and unenforced. Civil servants routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

46h. In practice, the requirements for civil service recusal from policy decisions affecting personal interests are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

The Human Rights Defender statement cited above describes a case in which a member of a Tender Commission participated in a tender and won it.

The OECD report describes Armenia as “non-compliant” in the observance of conflicts of interest. The report states that this was “one of the weakest points in the monitoring of Armenia” (p. 50). On the same page, the report substantiates this assessment: “There seem to be a number of ways for public officials, including at high levels, to avoid present and future regulations in view of combining business interests and public service or to defend certain business interests. There were examples mentioned of high-level officials who had significant business interests in a certain sector previously and now in their position they regulate this sector.”

**References:**

Human Rights Defender of the Republic of Armenia, 2011, “A summarizing statement on the tender held by RA Ministry of Education and Science.” <http://www.ombuds.am/main/en/9/27/2519/> (Accessed September 30, 2011). Date of statement: August 29, 2011.

OECD, 2011, Armenia Monitoring Report, OECD Anti-Corruption Network for Eastern Europe and Central Asia Istanbul Anti-Corruption Action Plan. <http://www.oecd.org/dataoecd/38/51/48964985.pdf> (Accessed November 20, 2011).

**100:** The requirements that civil servants recuse themselves from policy decisions where their personal interests are affected are routinely followed by most or all civil servants.

**75:**

**50:** The requirements that civil servants recuse themselves from policy decisions where their personal interests are affected are followed by most civil servants though exceptions exist. In certain sectors, civil servants are known to routinely participate in policy decisions where their personal interests are affected.

**25:**

**0:** Most civil servants routinely ignore recusal requirements and continue to participate in policy decisions where their personal interests are affected.

46i. In practice, civil service asset disclosures are audited.

100 | 75 | 50 | 25 | 0

**Comments:**

The Transparency International report’s assessment is that the tax authorities (the 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.

A civil servant interviewed during the study period explained that all asset declarations are collected by a separate department of the Tax Service of the State Revenue Committee, but that’s where it stops. No analysis is being done; there is no audit. The civil servant agreed to the interview only on the condition of remaining anonymous.

**References:**

Transparency International Anti-Corruption Center, 2011, European Neighbourhood Policy: Monitoring Armenia’s Anti-corruption Commitments 2010. Yerevan, Armenia. <http://transparency.am/publication.php?id=41> (Accessed August 25, 2011).

Anonymous civil servant. Date of interview: September 25, 2011. Place of interview: street cafe in Yerevan, Armenia.

**100:** Civil service asset disclosures are regularly audited using generally accepted auditing practices.

**75:**

**50:** Civil service asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

**25:**

**0:** Civil service asset disclosures are not audited, or the audits performed have no value. Audits may be performed by entities known to be partisan or biased in their practices.

#### 47. Can citizens access the asset disclosure records of senior civil servants?

50

47a. In law, citizens can access the asset disclosure records of senior civil servants.

Yes

No

##### Comments:

Freedom of Information Law, Article 7.3: "If it is not otherwise foreseen by the Constitution and/or the Law, the information holder at least once a year must publicize the following information related to his activity and or changes to it ... d) lists of personnel, as well as name, last name, education, profession, position, salary rate, business phone numbers and emails of officers."

According to Law on Declaration, Article 16.2, the state defines the information contained in the declaration that is due for publication. Article 16.4 states that the government submits information contained in the declaration to registered media entities.

##### References:

National Assembly of the Republic of Armenia, 2003, Law the Republic of Armenia on Freedom of Information, Article 7.3.d. <http://www.parliament.am/legislation.php?sel=show&ID=1390&lang=eng> (Accessed August 16, 2011).

National Assembly of the Republic of Armenia, 2006, Law of the Republic of Armenia on Declaration of Property and Income of Physical Persons, Article 16.2, Article 16.4. <http://www.parliament.am/legislation.php?sel=show&ID=2731&lang=arm> (Accessed August 18, 2011).

**Yes:** A YES score is earned if laws or regulations guarantee that citizens can access the asset records of senior civil servants.

**No:** A NO score is earned if senior civil servants do not file an asset disclosure. A NO score is earned if senior civil servants file an asset disclosure, but it is not available to the public.

47b. In practice, citizens can access the asset disclosure records of senior civil servants within a reasonable time period.

100

75

50

25

0

##### Comments:

The information has to be requested from the State Revenue Committee, which, according to the Freedom of Information Center study, is one of the least cooperative institutions in providing information. It has recently received a "rusty lock" award for most unrealistic official answers in 2011.

An additional restriction in terms of time is that according to the State Revenue Committee decision No. 18 (see above), the information on asset disclosure forms can be requested within a specific time period, between August 1 and December 1.



**References:**

Freedom of Information Center of Armenia, "FOI Annual Award Ceremony 2011". <http://www.foi.am/en/news/item/902/> (Accessed September 30, 2011).

State Revenue Committee of the Republic of Armenia, 2008, Order on the Approval of the Directive on "Submission of Declarations to a Superior Tax Body," Order No. 18, adopted on December 24, 2008, Appendix 2, Point 5. <http://www.arlis.am/> (Accessed August 17, 2011).

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

47c. In practice, citizens can access the asset disclosure records of senior civil servants at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

The Freedom of Information Center studies demonstrate that, in general, information can be obtained via email or for the cost of photocopying. There are not enough statistics to make a specific judgment about the State Revenue Committee, which is the information provider for the specific case of senior-level civil servants.

**References:**

Freedom of Information Center of Armenia, 2001, Implementation Practice of the Access to Information Right, 1st Quarter, 2011, Yerevan, Armenia. <http://www.foi.am/en/research/item/814/> (Accessed August 26, 2011).

Freedom of Information Center of Armenia, 2011, Implementation Practice of the Access to Information Right, 2nd Quarter, 2011, Yerevan, Armenia. [http://www.foi.am/u\\_files/file/FOICA%20Black%20list%20&%20monitoring,%202nd%20%20%20%20quarter%20ENG.pdf](http://www.foi.am/u_files/file/FOICA%20Black%20list%20&%20monitoring,%202nd%20%20%20%20quarter%20ENG.pdf) (Accessed August 26, 2011).

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records' costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

47d. In practice, the asset disclosure records of senior civil servants are of high quality.

100 | 75 | 50 | 25 | 0

#### Comments:

This study revealed no instances of civil service asset disclosures, neither in media nor by NGOs or international organizations active in Armenia. It is not possible to make any judgments on the quality of the declarations, as the State Revenue Committee does not carry out any analysis and is not the most cooperative body in providing information, according to the Freedom of Information Center's most recent analysis and award ceremony (see the link above).

#### References:

Freedom of Information Center of Armenia, 2010, "RA officials' income & asset declarations." <http://www.foi.am/en/declarations/> (Accessed September 27, 2011).

Հայկական ժամանակ. 2011. "Եկամուտների հայտարարագիր." <http://www.armtimes.com/tag/5605> (Accessed September 27, 2011).

Translation: Haykakan Zhamanak (daily newspaper with an online portal), "Asset Disclosures".

Grisha Balasanyan, 2010, Hetq Online: "Judges Salary Double, But Has Corruption on the Bench Decreased." <http://old.hetq.am/en/court/taron-nazaryan/> (Accessed September 27, 2011).

Freedom of Information Center of Armenia, "FOI Annual Award Ceremony 2011." <http://www.foi.am/en/news/item/902/> (Accessed September 30, 2011).

**100:** The asset disclosure records of senior civil servants are complete and detailed, providing the public with an accurate and updated accounting of the individuals' sources of income, investments, and other financial interests.

**75:**

**50:** The asset disclosure records of senior civil servants contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

**25:**

**0:** The asset disclosure records of senior civil servants are overly general, lack any meaningful detail, and do not provide a clear accounting of the individuals' sources of income, investments, and other financial assets.

## 4.2. Whistle-blowing Protections

48. Are employees protected from recrimination or other negative consequences when reporting corruption (i.e. whistle-blowing)?

0

48a. In law, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

Yes | No

**Comments:**

According to the Transparency International report, there are no legal provisions in place to protect whistle-blowers in the civil service. The Criminal Procedure Code, Chapter 12, Article 98, envisions protection for any person participating in criminal proceedings, but there are no specific regulations for civil servants reporting corruption.

**References:**

National Assembly of the Republic of Armenia, 1998, Criminal Procedure Code of the Republic of Armenia, Chapter 12, Article 98. <http://www.parliament.am/legislation.php?sel=show&ID=1450&lang=eng> (Accessed August 18, 2011).

Transparency International Anti-Corruption Center, 2011, European Neighborhood Policy: Monitoring Armenia's Anti-corruption Commitments 2010, Yerevan, Armenia. <http://transparency.am/publication.php?id=41> (Accessed August 25, 2011).

**Yes:** A YES score is earned if there are specific laws against recrimination against public sector whistleblowers. This may include prohibitions on termination, transfer, harassment or other consequences.

**No:** A NO score is earned if there are no legal protections for public-sector whistleblowers.

48b. In practice, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

100 | 75 | 50 | 25 | 0

**Comments:**

Transparency International reports that according to expert opinion and the opinion of the interviewed former civil servant, there is no protection of whistle-blowers.

**References:**

Transparency International Anti-Corruption Center, 2011, European Neighbourhood Policy: Monitoring Armenia's Anti-corruption Commitments 2010. Yerevan, Armenia. <http://transparency.am/publication.php?id=41> (Accessed August 25, 2011).

**100:** Public sector whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers or may be due to a culture that encourages disclosure and accountability.

**75:**

**50:** Public sector whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

**25:**

**0:** Public sector whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

48c. In law, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

Yes

No

**Comments:**

The Criminal Code, Article 312, states that an individual who has been involved in giving bribes will not be prosecuted if he or she voluntarily reports it to the law enforcement authorities.

The Criminal Procedure Code, Chapter 12, Article 98, envisions protection for any person participating in criminal proceedings, but there are no specific regulations for people reporting corruption.

There are no legal provisions for whistle-blowers, either in civil service or the private sector.

**References:**

National Assembly of the Republic of Armenia, 2003, Criminal Code of the Republic of Armenia, Article 312. <http://www.parliament.am/legislation.php?sel=show&ID=1349&lang=eng> (Accessed August 18, 2011).

National Assembly of the Republic of Armenia, 1998, Criminal Procedure Code of the Republic of Armenia, Chapter 12, Article 98. <http://www.parliament.am/legislation.php?sel=show&ID=1450&lang=eng> (Accessed August 18, 2011).

**Yes:** A YES score is earned if there are specific laws against recrimination against private sector whistleblowers. This may include prohibitions on termination, transfer, harassment or other consequences.

**No:** A NO score is earned if there are no legal protections for private-sector whistleblowers.

48d. In practice, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

100

75

50

25

0

**Comments:**

According to experts interviewed by Transparency International, there is no protection for whistle-blowers in Armenia.

**References:**

Transparency International Anti-Corruption Center, 2011, European Neighbourhood Policy: Monitoring Armenia's Anti-corruption Commitments 2010, Yerevan, Armenia. <http://transparency.am/publication.php?id=41> (Accessed August 25, 2011).

**100:** Private sector whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers or may be due to a culture that encourages disclosure and accountability.

**75:**

**50:** Private sector whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

**25:**

**0:** Private sector whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

49. In law, is there an internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption?

100

49a. In law, is there an internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption?

Yes

No

**Comments:**

Some ministries and state bodies have hotlines. For example, the Law on Procurement, Article 16.7, envisions an operation of a hotline by the Procurement Assistance Center.

Civil servants can also complain to the Human Rights Defender. According to the Law on Human Rights Defender, Article 7.1: "The Defender shall consider the complaints concerning violations by central and local government agencies or their officials of human rights and fundamental freedoms provided by the Constitution, laws, other legal acts and the international treaties of the Republic of Armenia, as well as by the principles and norms of International Law."

**References:**

National Assembly of the Republic of Armenia, 2010, Law of the Republic of Armenia on Procurement, Article 16.7. <http://www.parliament.am/legislation.php?sel=show&ID=3985&lang=arm> (Accessed August 18, 2011).

National Assembly of the Republic of Armenia, 2003, Law the Republic of Armenia on the Human Rights Defender, Article 7, "Complaints that are Subject to the Defender's Consideration." Section 1. <http://www.parliament.am/legislation.php?sel=show&ID=1457&lang=eng> (Accessed August 18, 2011).

**Yes:** A YES score is earned if there is a mechanism, or multiple mechanisms for multiple national government agencies, through which civil servants can report cases of graft, misuse of public funds, or corruption.

**No:** A NO score is earned if no such mechanism (or equivalent series of mechanisms) exists.

50. In practice, is the internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption effective?

50

50a. In practice, the internal reporting mechanism for public sector corruption has a professional, full-time staff.

100

75

50

25

0

**Comments:**

There is no unified internal corruption reporting mechanism, but it's possible to complain to the Human Rights Defender, whose office, according to Armen Mazmanyan and based on the inspection of the Human Rights Defender website, has a professional, full-time staff.

**References:**

Armen Mazmanyan, 2011, "Functioning of judiciary in Armenia," assistant professor, programs director, Legal Resource Center, American University of Armenia. Place of interview: American University of Armenia, Yerevan, Armenia. Date of interview: September 30, 2011.

Human Rights Defender of the Republic of Armenia, 2011. <http://www.ombuds.am/main/en/> (Accessed September 30, 2011).

**100:** The agency/entity has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency/entity has limited staff, a fact that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency/entity has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

50b. In practice, the internal reporting mechanism for public sector corruption receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

There is no internal reporting mechanism for public sector corruption, but such cases can be referred to the Human Rights Defender office, which, according to Armen Mazmanyan, receives regular funding and also is able to attract grants.

**References:**

Armen Mazmanyan, 2011, "Functioning of judiciary in Armenia," assistant professor, programs director, Legal Resource Center, American University of Armenia. Place of interview: American University of Armenia, Yerevan, Armenia. Date of interview: September 30, 2011.

**100:** The agency/entity has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency/entity has a regular source of funding but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

50c. In practice, the internal reporting mechanism for public sector corruption acts on complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

There is no unified internal reporting mechanism for public sector corruption, but it is possible to complain to the Human Rights Defender office. The Human Rights Defender office, according to Armen Mazmanyan, usually is fairly quick on reacting to citizen complains.

The hint to index 49 states: "A YES score can also be earned if the reporting mechanism is an ombudsman office or anti-corruption commission/agency." Taking this into consideration, I have chosen to focus on the Human Rights Defender office as an equivalent to such a mechanism, as I explained in the corresponding comment and in the comment to this index.

**References:**

Armen Mazmanyan, 2011, "Functioning of judiciary in Armenia," assistant professor, programs director, Legal Resource Center, American University of Armenia. Place of interview: American University of Armenia, Yerevan, Armenia. Date of interview: September 30, 2011.

**100:** The agency/entity acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

**75:**

**50:** The agency/entity acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

**25:**

**0:** The agency/entity cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

50d. In practice, when necessary, the internal reporting mechanism for public sector corruption initiates investigations.

100 | 75 | **50** | 25 | 0

**Comments:**

There is no unified internal corruption reporting mechanism, but it is possible to bring a complaint to the Human Rights Defender, who, according to Armen Mazmanyan, in general initiates independent and effective investigations.

The hint to index 49 states: "A YES score can also be earned if the reporting mechanism is an ombudsman office or anti-corruption commission/agency." Taking this into consideration, I have chosen to focus on the Human Rights Defender office as an equivalent to such a mechanism.

**References:**

Armen Mazmanyan, 2011, "Functioning of judiciary in Armenia," assistant professor, programs director, Legal Resource Center, American University of Armenia. Place of interview: American University of Armenia, Yerevan, Armenia. Date of interview: September 30, 2011.

**100:** When irregularities are discovered, the agency/entity is aggressive in investigating the government or in cooperating with other agencies' investigations.

**75:**

**50:** The agency/entity starts investigations, but is limited in its effectiveness. The agency/entity may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other investigative agencies, or occasionally unable to enforce its judgments.

**25:**

0: The agency/entity does not effectively investigate. The agency/entity may start investigations but not complete them, may refuse to cooperate with other investigative agencies, or may fail to detect offenders. The agency/entity may be partisan in its application of power.

50

#### 4.3. Government Procurement: Transparency, Fairness, and Conflicts of Interest Safeguards

##### 51. Is the public procurement process effective?

60

51a. In law, there are regulations addressing conflicts of interest for public procurement officials.

Yes

No

##### Comments:

The Law on Procurement, Article 30.6, requires that a procurement official recuse himself/herself from the process of procurement if there is a conflict of interest. Article 47.3 requires that in case of appeal, a member of the council that considers the appeal must recuse himself/herself in the case of conflict of interest.

##### References:

National Assembly of the Republic of Armenia, 2010, Law of the Republic of Armenia on Procurement, Article 30, Section 6; Article 47, Section 3. <http://www.parliament.am/legislation.php?sel=show&ID=3985&lang=arm> (Accessed August 18, 2011).

**Yes:** A YES score is earned if there are specific formal regulations defining and regulating conflicts of interest between official public duty and private interests for public procurement officials. A YES score is earned if such regulations cover all civil servants, including procurement officials.

**No:** A NO score is earned if no such rules exist.

51b. In law, there is mandatory professional training for public procurement officials.

Yes

No

##### Comments:

The Law on Procurement, Article 15.2.3: "The responsible body ensures the existence of the system of professional training and continuous retraining of procurement coordinators."

Article 16.1.1: "Procurement Assistance Center provides professional training and continuous retraining of procurement coordinators."

Law on Civil Service, Article 20.2: "Every civil servant shall be subject to mandatory training at least once every three years."



**References:**

National Assembly of the Republic of Armenia, 2010, Law of the Republic of Armenia on Procurement, Article 15, "Regulation of the Procurement Process." Section 2.3; Article 16, "Procurement Assistance Center." Section 1.1. <http://www.parliament.am/legislation.php?sel=show&ID=3985&lang=arm> (Accessed August 18, 2011).

National Assembly of the Republic of Armenia, 2001, Law of the Republic of Armenia on Civil Service, Article 20, "Training of the Civil Servant." Point 2. <http://www.parliament.am/legislation.php?sel=show&ID=1268&lang=eng> (Accessed August 18, 2011).

**Yes:** A YES score is earned if public procurement officials receive regular mandatory training to ensure professional standards in supervising the tendering process. A YES score is earned if such training is mandated for portions of the broader civil service, to include procurement officials.

**No:** A NO score is earned if there is no regular required training of public procurement officials or if training is sporadic, inconsistent, unrelated to procurement processes, or voluntary.

51c. In practice, the conflicts of interest regulations for public procurement officials are enforced.

100 | 75 | 50 | 25 | 0

**Comments:**

According to the Transparency International report: Among many problems of the procurement system, there is the problem of the bias of the tender commission members.

The Human Rights Defender reports an example of bias in the procurement system. A tender was held by the Ministry of Education and Science for a textbook. A member of the Tender Commission was also the editor of the textbook that won the tender.

**References:**

Transparency International Anti-Corruption Center, 2011, European Neighborhood Policy: Monitoring Armenia's Anti-corruption Commitments 2010, Yerevan, Armenia. <http://transparency.am/publication.php?id=41> (Accessed August 25, 2011).

Human Rights Defender of the Republic of Armenia, 2011, "A summarizing statement on the tender held by RA Ministry of Education and Science." <http://www.ombuds.am/main/en/9/27/2519/> (Accessed September 30, 2011).

**100:** Regulations regarding conflicts of interest for procurement officials are aggressively enforced.

**75:**

**50:** Conflict-of-interest regulations exist, but are flawed. Some violations may not be enforced, or some officials may be exempt from regulations.

**25:**

**0:** Conflict-of-interest regulations do not exist, or are consistently ineffective.

51d. In law, there is a mechanism that monitors the assets, incomes and spending habits of public procurement officials.

Yes | No

**Comments:**

Public procurement officials are required to declare their assets and income; however, these are not being monitored. This was confirmed by an anonymous civil servant.

**References:**

National Assembly of the Republic of Armenia, 2006, Law of the Republic of Armenia on Declaration of Property and Income of Physical Persons, Article 5, Section 2.1. <http://www.parliament.am/legislation.php?sel=show&ID=2731&lang=arm> (Accessed August 18, 2011).

**Yes:** A YES score is earned if there is a formal mandate to some agency to monitor the assets, incomes and spending habits of public procurement officials, such as an inspector general, or ombudsman.

**No:** A NO score is earned if no such mandate exists.

51e. In law, major procurements require competitive bidding.

Yes | No

**Comments:**

The Law on Procurement, Article 17, states that procurement is conducted on a competitive basis, except in cases prescribed by the law, in which it is allowed to conduct procurement using its noncompetitive forms.

**References:**

National Assembly of the Republic of Armenia, 2010, Law of the Republic of Armenia on Procurement, Article 17, Section 2. <http://www.parliament.am/legislation.php?sel=show&ID=3985&lang=arm> (Accessed August 18, 2011).

**Yes:** A YES score is earned if all major procurements (defined as those greater than 0.5% of GDP) require competitive bidding.

**No:** A NO score is earned if competitive bidding is not required by law or regulation for major procurement (greater than 0.5% OF GDP).

51f. In law, strict formal requirements limit the extent of sole sourcing.

Yes | No

**Comments:**

The Law on Procurement, Article 20, sets the conditions for sole sourcing. Section 2 of the article specifies that sole sourcing can occur in emergency and other unforeseen situations that create an urgency of procurement. According to experts quoted in the Transparency International report, 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.

Procurement Law, Article 23: Conditions for use of single-source procurement

a) the goods, works or services to be procured can be purchased only from one source, due to copyright and adjacent rights, lack of competition or license.

b) Owing to an emergency or contingency, there is an urgent need for procurement and, in terms of time, it is impossible to use another form of procurement, provided this need was impossible to predict as well as, if the procurement item is not covered in signed periodic procurement contracts.

c) The procuring entity, having procured from a certain person, determines that that additional supplies must be procured from that supplier, provided its price does not exceed 20 percent of the initial procurement contract. Under provisions of this paragraph, additional procurement from the same supplier can be done only once. According to point “c” of this article, sole sourcing is possible in cases of emergency or urgency.

Transparency International’s report considers this to be a loophole in the legislation. Emergency or urgency are situations that are not well defined. It is not specific enough. Thus, I have opted for the NO score, which includes lack of specificity in its definition.

#### References:

National Assembly of the Republic of Armenia, 2010, Law of the Republic of Armenia on Procurement, Article

20. <http://www.parliament.am/legislation.php?sel=show&ID=3985&lang=arm> (Accessed August 18, 2011).

Transparency International Anti-Corruption Center, 2011, European Neighborhood Policy: Monitoring Armenia’s Anti-corruption Commitments 2010, Yerevan, Armenia. <http://transparency.am/publication.php?id=41> (Accessed August 25, 2011).

**Yes:** A YES score is earned if sole sourcing is limited to specific, tightly defined conditions, such as when a supplier is the only source of a skill or technology.

**No:** A NO score is earned if there are no prohibitions on sole sourcing. A NO score is earned if the prohibitions on sole sourcing are general and unspecific.

51g. In law, unsuccessful bidders can instigate an official review of procurement decisions.

Yes

No

#### Comments:

Section 6 of the Law on Procurement describes the procedures for appealing.

Article 45: Every person has the right to lodge a complaint to the Complaint Council.

Article 46: The list of members of the Complaint Council is published by an authorized body (Ministry of Finance). There are specifications for who can be on the list and who should be included in the council (at least one representative of the state body, local self-governing body, Central Bank and NGO representative).

Articles 47 and 48: The council discusses the case and can make decisions up to abolishing the procurement decision against which the complaint was lodged.

#### References:

National Assembly of the Republic of Armenia, 2010, Law of the Republic of Armenia on Procurement, Section 6, Articles 45-

48. <http://www.parliament.am/legislation.php?sel=show&ID=3985&lang=arm> (Accessed August 18, 2011).

**Yes:** A YES score is earned if there is a formal appeal process for unsuccessful bidders.

**No:** A NO score is earned if no such process exists.

51h. In law, unsuccessful bidders can challenge procurement decisions in a court of law.

Yes | No

**Comments:**

The Law on Procurement, Article 45.3.2: Each person has a right to lodge a complaint against decisions of the Complaint Council, the procurement entity and/or tender commission.

**References:**

National Assembly of the Republic of Armenia, 2010, Law of the Republic of Armenia on Procurement, Article 45, point 3.2. <http://www.parliament.am/legislation.php?sel=show&ID=3985&lang=arm> (Accessed August 18, 2011).

**Yes:** A YES score is earned if unsuccessful bidders can use the courts to appeal a procurement decision.

**No:** A NO score is earned if no such process exists.

51i. In law, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

Yes | No

**Comments:**

The Law on Procurement, Article 5.4, states that there is a blacklist of companies not allowed to participate in procurement bids. The reasons for being added to the blacklist include procurement regulation violations (breach of contract, fake data, abuse of privileged status), though corruption is not explicitly mentioned. Companies can remain on the blacklist from six months to three years.

**References:**

National Assembly of the Republic of Armenia, 2010, Law of the Republic of Armenia on Procurement, Article 5.4. <http://www.parliament.am/legislation.php?sel=show&ID=3985&lang=arm> (Accessed August 18, 2011).

**Yes:** A YES score is earned if there are formal procurement blacklists, designed to prevent convicted companies from doing business with the government.

**No:** A NO score is earned if no such process exists.

51j. In practice, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

100 | 75 | 50 | 25 | 0

**Comments:**

The most up-to-date blacklist of companies can be found through searching the online legal resource database at <http://www.arlis.am> (Ministry of Economy and Finance decision No. 1166, adopted November 10, 2005, and amended since). The

list contains some 33 entries. It is hard to determine how effective this list is, as the information on procurement has only recently become available online and encompasses only the year 2011.

According to the civil servant, the system is not effective. Public procurement suffers from the overarching problem of corruption and nepotism in the Armenian government.

**References:**

Anonymous civil servant. Date of interview: September 25, 2011. Place of interview: street cafe in Yerevan, Armenia

Republic of Armenia Ministry of Finance, 2011, "The Procurement System in the Republic of Armenia." <http://gnumner.am/en/home.html> (Accessed October 2, 2011).

**100:** A system of formal blacklists and cooling off periods is in place for companies convicted of corruption. All companies are subject to this system.

**75:**

**50:** A system of formal blacklists and cooling off periods is in place, but the system has flaws. Some procurements or companies may not be affected by the system, or the prohibitions are sometimes not effective.

**25:**

**0:** There is no such system, or the system is consistently ineffective in prohibiting future hiring of blacklisted companies.

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## 52. Can citizens access the public procurement process?

92

52a. In law, citizens can access public procurement regulations.

Yes

No

**Comments:**

The Law on Procurement, Article 16.7, envisions an operation of a hotline by the Procurement Assistance Center, which, among other functions, should answer procurement-related questions.

**References:**

National Assembly of the Republic of Armenia, 2010, Law of the Republic of Armenia on Procurement, Article 16.7. <http://www.parliament.am/legislation.php?sel=show&ID=3985&lang=arm> (Accessed August 18, 2011).

**Yes:** A YES score is earned if procurement rules are, by law, open to the public. These regulations are defined here as the rules governing the competitive procurement process.

**No:** A NO score is earned if procurement rules are officially secret for any reason or if there are no procurement rules.

52b. In law, the government is required to publicly announce the results of procurement decisions.

Yes | No

**Comments:**

According to Article 8.4, the purchaser is obliged to provide the information to any person upon request. According to Article 10, the purchaser is submitting the information to an "authorized body" (the Ministry of Finance).

According to the Government Decision No. 168, Appendix 1, Article 108, the Ministry of Finance publishes the results of the procurement competition and the contracts on the [www.gnumner.am](http://www.gnumner.am) website.

**References:**

National Assembly of the Republic of Armenia, 2010, Law of the Republic of Armenia on Procurement, Articles 8.4 and 10. <http://www.parliament.am/legislation.php?sel=show&ID=3985&lang=arm> (Accessed August 18, 2011).

Government of the Republic of Armenia, 2011, Decision on Procurement Process Organization, Decision No. 168, adopted February 10, 2011. Appendix 1, Article 108. <http://www.arlis.am/> (Accessed August 17, 2011).

**Yes:** A YES score is earned if the government is required to publicly post or announce the results of the public procurement process. This can be done through major media outlets or on a publicly-accessible government register or log.

**No:** A NO score is earned if there is no requirement for the government to publicly announce the results of the public procurement process.

52c. In practice, citizens can access public procurement regulations within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

With the recent establishment of a special website dedicated to procurement procedures, citizen access to rules and regulations has been greatly enhanced. The website contains all major legal documents and regulations as well as a section of frequently asked questions. The phone number of the hotline is also on the website, allowing citizens to call and ask for clarifications. As the Armenian government is overall careful with releasing politically sensitive information, it is hard to assess whether this particular website is free from that problem.

**References:**

Republic of Armenia Ministry of Finance, 2011, "The Procurement System in the Republic of Armenia." <http://gnumner.am/en/home.html> (Accessed October 2, 2011).

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information. These records are defined here as the rules governing the competitive procurement process.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

52d. In practice, citizens can access public procurement regulations at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

All the information is available at the recently established website specially dedicated to public procurement.

**References:**

Republic of Armenia Ministry of Finance, 2011, "The Procurement System in the Republic of Armenia." <http://gnumner.am/en/home.html> (Accessed October 2, 2011).

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line. These records are defined here as the rules governing the competitive procurement process.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

52e. In practice, major public procurements are effectively advertised.

100 | 75 | 50 | 25 | 0

**Comments:**

Procurement announcements are posted on the website of the Ministry of Finance, specifically dedicated to that purpose. On average there is a validity period of about one month, allowing enough time for the bidders.

**References:**

Republic of Armenia Ministry of Finance, 2011, "The Procurement System in the Republic of Armenia." <http://gnumner.am/en/home.html> (Accessed October 2, 2011).

**100:** There is a formal process of advertising public procurements. This may include a government website, newspaper advertising, or other official announcements. All major procurements are advertised in this way. Sufficient time is allowed for bidders to respond to advertisements.

**75:**

**50:** There is a formal process of advertisement but it is flawed. Some major procurements may not be advertised, or the advertising process may not be effective. The time between advertisements and bidding may be too short to allow full participation.

**25:**

0: There is no formal process of advertising major public procurements or the process is superficial and ineffective.

52f. In practice, citizens can access the results of major public procurement bids.

100 | 75 | 50 | 25 | 0

**Comments:**

The announcements concerning the results of the procurement and the contracts are available online at [www.gnumner.am](http://www.gnumner.am). As Armenia's Internet penetration is broadening, this is becoming available to more citizens, although those in rural areas and from impoverished sectors of society will find it difficult to access this information.

**References:**

Republic of Armenia Ministry of Finance, 2011, "The Procurement System in the Republic of Armenia." <http://gnumner.am/en/home.html> (Accessed October 2, 2011).

100: Records of public procurement results are publicly available through a formal process.

75:

50: Records of public procurements are available, but there are exceptions to this practice. Some information may not be available, or some citizens may not be able to access information.

25:

0: This information is not available to the public through an official process.

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#### 4.4. Privatization of Public Administrative Functions: Transparency, Fairness, and Conflicts of Interest Safeguards

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##### 53. Is the privatization process effective?

33

53a. In law, all businesses are eligible to compete for privatized state assets.

Yes | No

**Comments:**

Article 8: 20 percent of the book value of the property of the state enterprise is privatized freely to those members of the personnel who at the moment of decision about privatization have at least one year uninterrupted working experience in that enterprise and have declared their will to take part in the free privatization of the part.



Article 10: The persons considered to be members of the personnel of the company (enterprise) or “small” site to be privatized have equal rights for obtaining the property of the company (enterprise) or “small” site to be privatized.

In case of free subscription of state stocks, by the decision of the general meeting (meeting of authorized representatives or conference) a definite part of state share is reserved for the members of the personnel, but not more than 20 percent, but only if more than 50 percent of the members of the personnel have expressed their will and have drawn subscription to up to 20 percent of state share of the company (enterprise).

**References:**

National Assembly of the Republic of Armenia, 1997, Law of the Republic of Armenia on Privatisation of State Property, Article 8, “Free Privatization of the Part of Property of State Enterprises,” and Article 10, “Right of the Members of the Personnel in Privatization of Companies (Enterprises) and ‘Small’ Privatization Sites”.

<http://www.parliament.am/legislation.php?sel=show&ID=1657&lang=eng> (Accessed August 18, 2011).

**Yes:** A YES score is earned if all businesses are equally eligible to compete for privatized assets. A YES score is still earned if the government did not privatize any state-owned assets during the study period.

**No:** A NO score is earned if any group of businesses (other than those blacklisted due to corruption charges) is excluded by law.

53b. In law, there are regulations addressing conflicts of interest for government officials involved in privatization.

Yes | No

**Comments:**

The Armenian legislature lacks proper provisions for the conflict of interest of civil servants in general. There are no specific regulations for public officials involved in privatization, either. This information is confirmed by an interview with a civil servant.

**References:**

National Assembly of the Republic of Armenia, 1997, Law of the Republic of Armenia on Privatization of State Property. <http://www.parliament.am/legislation.php?sel=show&ID=1657&lang=eng> (Accessed August 18, 2011).

National Assembly of the Republic of Armenia, 2001, Law of the Republic of Armenia on Civil Service. <http://www.parliament.am/legislation.php?sel=show&ID=1268&lang=eng> (Accessed August 18, 2011).

**Yes:** A YES score is earned if there are specific formal regulations defining and regulating conflicts of interest between official public duty and private interests for privatization officials. A YES score is earned if such regulations cover all civil servants, including privatization officials.

**No:** A NO score is earned if there are no such formal regulations.

53c. In practice, conflicts of interest regulations for government officials involved in privatization are enforced.

100 | 75 | 50 | 25 | 0

**Comments:**

There are no regulations for public officials dealing with privatization. There is nothing to enforce.

**References:**

Anonymous civil servant. Date of interview: September 25, 2011. Place of interview: street cafe in Yerevan, Armenia.

**100:** Regulations regarding conflicts of interest for privatization officials are aggressively enforced.

**75:**

**50:** Conflict-of-interest regulations exist, but are flawed. Some violations may not be enforced, or some officials may be exempt from the regulations.

**25:**

**0:** Conflict of interest regulations do not exist, or are consistently ineffective.

---

#### 54. Can citizens access the terms and conditions of privatization bids?

75

54a. In law, citizens can access privatization regulations.

Yes

No

**Comments:**

The Law on Privatization, Article 27, states: "Information about free subscription to stocks of state property, auction and 'small' privatization shall be published and announced through mass media at least 10 days prior to privatization. The procedure of publication of the information about privatization in other forms foreseen by this law is defined by the relevant decision of the government of the RA about privatization. The results of the privatization transaction shall be published within one month from the date of termination of these transactions under the procedure defined by the government."

It's not clear whether this information also includes rules of privatization. Some rules of privatization are detailed in the law itself, and the law is available online.

**References:**

National Assembly of the Republic of Armenia, 1997, Law of the Republic of Armenia on Privatization of State Property, Article 27, "Information about Privatization". <http://www.parliament.am/legislation.php?sel=show&ID=1657&lang=eng> (Accessed August 18, 2011).

**Yes:** A YES score is earned if privatization rules (defined here as the rules governing the competitive privatization process) are, by law, open to the public. Even if privatization is infrequent or rare, the most recent privatization should be used as the basis for scoring this indicator.

**No:** A NO score is earned if privatization rules are officially secret for any reason or if there are no privatization rules.

54b. In practice, privatizations are effectively advertised.

**Comments:**

The parliament adopts a law on privatization program for each year. The last such program was adopted for the year 2006-2007, with the last substantial amendment made to it in 2008 (one company name added). This information was posted online and printed in a state newspaper and through the parliament publication. However, Internet penetration in 2008 was still fairly low, as was print newspaper circulation.

**References:**

National Assembly of the Republic of Armenia, 2006, Law of the Republic of Armenia on 2006-2007 Program of State Property Privatization. <http://www.parliament.am/legislation.php?sel=show&ID=2690> (Accessed August 18, 2011).

**100:** There is a formal process of advertising privatizations. This may include a government website, newspaper advertising, or other official announcements. All major procurements are advertised in this way. Sufficient time is allowed for bidders to respond to advertisements.

**75:**

**50:** There is a formal process of advertisement but it is flawed. Some privatizations may not be advertised, or the advertising process may not be effective. The time between advertisements and bidding may be too short to allow full participation.

**25:**

**0:** There is no formal process of advertising privatizations or the process is superficial and ineffective.

54c. In law, the government is required to publicly announce the results of privatization decisions.

Yes

No

**Comments:**

The law on Privatization, Article 27, states: "The results of privatization transaction shall be published with one month from the date of termination of these transactions under the procedure defined by the government."

**References:**

National Assembly of the Republic of Armenia, 1997, Law of the Republic of Armenia on Privatization of State Property, Article 27, "Information about Privatization". <http://www.parliament.am/legislation.php?sel=show&ID=1657> (Accessed August 18, 2011).

**Yes:** A YES score is earned if the government is required to publicly post or announce the results of the privatization process. This can be done through major media outlets or on a publicly-accessible government register or log.

**No:** A NO score is earned if there is no requirement for the government to publicly announce the results of the privatization process.

54d. In practice, citizens can access privatization regulations within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

All rules and regulations are available through the Armenian Legal Information System web portal [www.arlis.am](http://www.arlis.am), operational since 2005, meaning that it was in place in 2008, when the last privatization took place.

**References:**

"Armenian Legal Information System," 2011. <http://www.arlis.am/default.aspx> (Accessed October 2, 2011).

**100:** Records (defined here as the rules governing the competitive privatization process) are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

54e. In practice, citizens can access privatization regulations at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

All rules and regulations are available through the Armenian Legal Information System web portal [www.arlis.am](http://www.arlis.am), operational since 2005, meaning that it was in place in 2008 when the last privatization took place.

**References:**

"Armenian Legal Information System," 2011. <http://www.arlis.am/default.aspx> (Accessed October 2, 2011).

**100:** Records (defined here as the rules governing the competitive privatization process) are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

## 5.1. National Ombudsman

55. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

100

55a. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

Yes

No

**Comments:**

The Constitution, Article 83.1, states: "The National Assembly shall elect the Human Rights' Defender for a period of six years by three-fifths of the total number of Deputies. ... The Human Rights Defender shall be irremovable.

"The Human Rights Defender is an independent official who implements the protection of the violated human rights and freedoms by state and local self-government bodies and their officials."

The Law on Human Rights Defender, Article 2.1, states: "The Human Rights Defender (hereafter – the Defender) is an official, who, acting pursuant to the Constitution and the Law of the Republic of Armenia, as well as principles and norms of International Law, on behalf of the State protects the human rights and fundamental freedoms violated by central and local government agencies or their officials."

**References:**

Human Rights Defender

Constitution of the Republic of Armenia, 2005, Article 83.1. <http://www.parliament.am/parliament.php?id=constitution> <=eng.

National Assembly of the Republic of Armenia, 2003, Law of the Republic of Armenia on the Human Rights Defender. <http://www.parliament.am/legislation.php?sel=show&ID=1457> <=eng (Accessed August 18, 2011).

**Yes:** A YES score is earned if there is a specific agency or set of agencies whose primary mandate is to investigate the actions of government on the behalf of common citizens. This agency or set of agencies should be specifically charged with seeking out and documenting abuses of power.

**No:** A NO score is earned if no such agency or set of agencies exists, or that function is a secondary concern of a larger body, such as the legislature.

56. Is the national ombudsman effective?

73

56a. In law, the ombudsman is protected from political interference.

Yes | No

**Comments:**

The Constitution, Article 83.1, states: "The Human Rights' Defender shall be irremovable. The Human Rights Defender is an independent official who implements the protection of the violated human rights and freedoms by state and local self-government bodies and their officials. The state and local self-government bodies and their officials shall cooperate with the Human Rights Defender."

"The Human Rights Defender shall be endowed with the immunity envisaged for the deputy."

The Law on Human Rights Defender, Article 3.2, states: "The Defender shall be appointed by the National Assembly by a vote of more than three-fifths of the general number of deputies from candidates nominated by the President of the Republic, one-fifth of the National Assembly deputies."

Article 4.1: "The Defender shall not hold any state or other office or perform other work for compensation, except for scientific, pedagogical or creative activities."

Article 4.2: "The Defender shall not be a member of any political party, nor shall s/he nominate his/her candidacy for elections, participate in pre-election campaigns."

Article 5, Independence of the Defender, states:

"1. The Defender shall be independent in executing his/her powers and shall be guided only by the Constitution and the Laws of the Republic of Armenia, as well as norms and principles of International Law. The Defender shall not be subordinated or accountable to any central or local government agency or official.

2. The Defender shall not be obligated to provide clarifications, not even as a witness, about the nature of a complaint or a document in his/her possession. S/he shall not make them accessible for familiarization with the exception of the cases and procedure not stipulated by the law."

**References:**

Constitution of the Republic of Armenia, 2005, Article 83.1. <http://www.parliament.am/parliament.php?id=constitution> <=eng.

National Assembly of the Republic of Armenia, 2003, Law of the Republic of Armenia on the Human Rights Defender, Articles 3.2, 4.1, 4.2, 5. <http://www.parliament.am>.

**Yes:** A YES score is earned only if the agency (or set of agencies) has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

**No:** A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

56b. In practice, the ombudsman is protected from political interference.

100 | 75 | 50 | 25 | 0

**Comments:**

According to Vladimir Shkolnikov: "Both the first ombudsman of Armenia, Larisa Alaverdian, appointed by the president, and the second, Armen Harutyunian, selected in accordance with the 2005 Constitution, proposed by the president and approved by the National Assembly (Parliament), have exhibited a considerable degree of independence and on different occasions have attracted the ire of the executive branch." p. 51

According to Armen Mazmanyan, all three Human Rights Defenders Armenia has had so far were to some extent unwanted by the government, which is a sign of their independence. They have independence to some degree but they are also under political pressure.

**References:**

Vladimir D. Shkolnikov, 2011, "European assistance to human rights, democracy and rule of law in Armenia: Incremental results, no breakthroughs." In Spotlight on Armenia; ed. Adam Hug, The Foreign Policy Centre, p. 51-53. <http://fpc.org.uk/fsblob/1331.pdf> (Accessed June 5, 2011).

Armen Mazmanyan, 2011, "Functioning of judiciary in Armenia," assistant professor, programs director, Legal Resource Center, American University of Armenia. Place of interview: American University of Armenia, Yerevan, Armenia. Date of interview: September 30, 2011.

**100:** This agency (or set of agencies) operates independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Investigations can operate without hindrance from the government, including access to politically sensitive information.

**75:**

**50:** This agency (or set of agencies) is typically independent, yet is sometimes influenced in its work by negative or positive political incentives. This may include public criticism or praise by the government. The ombudsman may not be provided with some information needed to carry out its investigations.

**25:**

**0:** This agency (or set of agencies) is commonly influenced by political or personal incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. The ombudsman cannot compel the government to reveal sensitive information.

56c. In practice, the head of the ombudsman agency/entity is protected from removal without relevant justification.

100 | 75 | **50** | 25 | 0

**Comments:**

According to Armen Mazmanyan, the Human Rights Defender has a certain degree of independence, but there are reasons to believe that the first Defender was removed without real justifications.

A news report by Regnum concerning the election of the new Human Rights Defender after the first HR Defender stopped her activities identified the following ambiguities in the situation back then: "While she still was officially an ombudsman, the stamps and documents of the institution were seized and her office was blocked."

As for the current situation, the former HR Defender says the "Armenian Ombudsman Institute is facing serious threats, with the authorities reluctant to address the citizens' complaints" (see article on PanArmenian.Net).

**References:**

Armen Mazmanyan, 2011, "Functioning of judiciary in Armenia," assistant professor, programs director, Legal Resource Center, American University of Armenia. Place of interview: American University of Armenia, Yerevan, Armenia. Date of interview: September 30, 2011.

PanArmenian.Net, 2011, "Armenian Ombudsman Institute threatened — Larisa Alaverdyan." <http://www.panarmenian.net/eng/news/86260/> (Accessed December 21, 2011).

Regnum, 2006, Armenian Parliament to elect new ombudsman. <http://www.regnum.ru/english/583454.html> (Accessed December 21, 2011)

**100:** The director of the ombudsman (or directors of multiple agencies) serves a defined term and cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

**75:**

**50:** The director of the ombudsman (or directors of multiple agencies) serves a defined term, but can in some cases be removed through a combination of official or unofficial pressure.

**25:**

**0:** The director of the ombudsman (or directors of multiple agencies) can be removed at the will of political leadership.

56d. In practice, the ombudsman agency (or agencies) has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

According to Armen Mazmanyany, the Human Rights Defender office has a professional full-time staff. This is also confirmed by a review of the information available online on the HR Defender website ([www.ombuds.am](http://www.ombuds.am)).

**References:**

"Human Rights Defender of the Republic of Armenia," 2011. <http://www.ombuds.am/main/en/> (Accessed September 30, 2011).

Armen Mazmanyany, 2011, "Functioning of judiciary in Armenia," assistant professor, programs director, Legal Resource Center, American University of Armenia. Place of interview: American University of Armenia, Yerevan, Armenia. Date of interview: September 30, 2011.

**100:** The ombudsman agency (or agencies) has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The ombudsman agency (or agencies) has limited staff that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The ombudsman agency (or agencies) has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

56e. In practice, agency appointments support the independence of the ombudsman agency (or agencies).

100 | 75 | 50 | 25 | 0

**Comments:**

Armen Mazmanyany assessed the Human Rights Defender office staff as professional and contributing toward office independence.

**References:**

Armen Mazmanyany, 2011, "Functioning of judiciary in Armenia," assistant professor, programs director, Legal Resource Center, American University of Armenia. Place of interview: American University of Armenia, Yerevan, Armenia. Date of interview: September 30, 2011.



**100:** Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties.

**25:**

**0:** Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

56f. In practice, the ombudsman agency (or agencies) receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

According to Armen Mazmanyan, the Human Rights Defender office receives regular funding and is also able to attract grants.

**References:**

Armen Mazmanyan, 2011, "Functioning of judiciary in Armenia," assistant professor, programs director, Legal Resource Center, American University of Armenia. Place of interview: American University of Armenia, Yerevan, Armenia. Date of interview: September 30, 2011.

**100:** The agency (or agencies) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency (or agencies) has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency functions.

56g. In practice, the ombudsman agency (or agencies) makes publicly available reports.

100 | 75 | 50 | 25 | 0

**Comments:**

According to the U.S. report: "During the year the ombudsman issued both regular and unscheduled reports on human rights problems."

This information is confirmed by Armen Mazmanyan and by the review of the corresponding web page ([www.ombuds.am](http://www.ombuds.am)), where the reports are stored and available for public use.

**References:**

U.S. Department of the State, 2011, "2010 Human Rights Report: Armenia." <http://www.state.gov/g/drl/rls/hrrpt/2010/eur/154411.htm> (Accessed August 24, 2011).

Armen Mazmanyan, 2011, "Functioning of judiciary in Armenia," assistant professor, programs director, Legal Resource Center, American University of Armenia. Place of interview: American University of Armenia, Yerevan, Armenia. Date of interview: September 30, 2011.

"Human Rights Defender of the Republic of Armenia," 2011. <http://www.ombuds.am/main/en/> (Accessed September 30, 2011).

**100:** The agency (or agencies) makes regular, publicly available, substantial reports either to the legislature or directly to the public outlining the full scope of its work.

**75:**

**50:** The agency (or agencies) makes publicly available reports to the legislature and/or directly to the public that are sometimes delayed or incomplete.

**25:**

**0:** The agency (or agencies) makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

56h. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

According to Armen Mazmanyan, the Human Rights Defender office often initiates investigations on its own, that's its job. The HR Defender has recently requested the Disciplinary Committee (of the judiciary) to penalize some judges for misconduct.

**References:**

Armen Mazmanyan, 2011, "Functioning of judiciary in Armenia," assistant professor, programs director, Legal Resource Center, American University of Armenia. Place of interview: American University of Armenia, Yerevan, Armenia. Date of interview: September 30, 2011.

**100:** The agency aggressively starts investigations — or participates fully with cooperating agencies' investigations — into judicial misconduct. The agency is fair in its application of this power.

**75:**

**50:** The agency will start or cooperate in investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The agency, though limited in effectiveness, is still fair in its application of power.

**25:**

**0:** The agency rarely investigates on its own or cooperates in other agencies' investigations, or the agency is partisan in its application of this power.

56i. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

**Comments:**

According to Armen Mazmanyan, the Human Rights Defender cannot impose penalties but can request the corresponding body to do so. Recently they made a request to the Disciplinary Committee (of the judiciary) to penalize some judges.

**References:**

Armen Mazmanyan, 2011, "Functioning of judiciary in Armenia," assistant professor, programs director, Legal Resource Center, American University of Armenia. Place of interview: American University of Armenia, Yerevan, Armenia. Date of interview: September 30, 2011.

**100:** When rules violations are discovered, the agency is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.

**75:**

**50:** The agency enforces rules, but is limited in its effectiveness. The agency may be slow to act, unwilling to take on politically powerful offenders, resistant to cooperating with other agencies, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency does not effectively penalize offenders. The agency may make judgments but not enforce them, does not cooperate with other agencies in enforcing penalties, or may fail to make reasonable judgments against offenders. The agency may be partisan in its application of power.

56j. In practice, the government acts on the findings of the ombudsman agency (or agencies).

100 | 75 | 50 | 25 | 0

**Comments:**

According to the U.S. Human Rights Report: "The government has generally been unresponsive to the ombudsman's reports."

According to Armen Mazmanyan, the government reacts to the Human Rights Defender's reports because it has to, at least formally. Informally, it doesn't really care much.

**References:**

U.S. Department of the State, 2011, "2010 Human Rights Report: Armenia." <http://www.state.gov/g/drl/rls/hrrpt/2010/eur/154411.htm> (Accessed August 24, 2011).

Armen Mazmanyan, 2011, "Functioning of judiciary in Armenia," assistant professor, programs director, Legal Resource Center, American University of Armenia. Place of interview: American University of Armenia, Yerevan, Armenia. Date of interview: September 30, 2011.

**100:** Ombudsman's reports are taken seriously, with negative findings drawing prompt corrective action.

**75:**

**50:** In most cases, ombudsman's reports are acted on, though some exceptions may occur for politically sensitive issues, or particularly resistant agencies.

**25:**

**0:** Ombudsman's reports are often ignored, or given superficial attention. Ombudsman's reports do not lead to policy changes.

56k. In practice, the ombudsman agency (or agencies) acts on citizen complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

According to Armen Mazmanyan, the Human Rights Defender office is quite quick in reacting to citizens' complains.

The HR Defender office has reopened its hotline from November 1, 2011 (see newspaper article above), which should also add to response speed.

**References:**

Armen Mazmanyan, 2011, "Functioning of judiciary in Armenia," assistant professor, programs director, Legal Resource Center, American University of Armenia. Place of interview: American University of Armenia, Yerevan, Armenia. Date of interview: September 30, 2011.

Hetq online, 2011, "Human Rights Defender's 116 Hotline to Operate from November 1st." <http://hetq.am/eng/news/5963/human-rights-defender%E2%80%99s-116-hotline-to-operate-from-november-1st.html> (Accessed December 2, 2011).

**100:** The agency (or agencies) acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

**75:**

**50:** The agency (or agencies) acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

**25:**

**0:** The agency (or agencies) cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

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## 57. Can citizens access the reports of the ombudsman?

100

57a. In law, citizens can access reports of the ombudsman(s).

Yes | No

**Comments:**

According to Article 17.1: "Each year, during the first quarter of the year, the Defender shall deliver a report on his activities and on the human rights situation in the previous year to the President of the Republic of Armenia and the representatives of executive, legislative and judicial authorities. The reports shall be presented to the National Assembly during the first sitting of the National Assembly's spring session. The Defender also presents his/her report to the mass media and relevant NGOs."

**References:**

National Assembly of the Republic of Armenia, 2003, Law of the Republic of Armenia on the Human Rights Defender, Article 17, The Defender's Report, Point 1. <http://www.parliament.am/legislation.php?sel=show&ID=1457> (Accessed August 18, 2011).

**Yes:** A YES score is earned if all ombudsman reports are publicly available.

**No:** A NO score is earned if any ombudsman reports are not publicly available. This may include reports made exclusively to the legislature or the executive, which those bodies may choose not to distribute the reports.

57b. In practice, citizens can access the reports of the ombudsman(s) within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

The reports are available online, as confirmed by the interviewee and the inspection of the corresponding website (www.ombuds.am).

**References:**

Armen Mazmanyan, 2011, "Functioning of judiciary in Armenia," assistant professor, programs director, Legal Resource Center, American University of Armenia. Place of interview: American University of Armenia, Yerevan, Armenia. Date of interview: September 30, 2011.

"Human Rights Defender of the Republic of Armenia," 2011. <http://www.ombuds.am/main/en/> (Accessed September 30, 2011).

**100:** Reports are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Reports take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Reports take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

57c. In practice, citizens can access the reports of the ombudsman(s) at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

The reports are available online, as confirmed by the interviewee and the inspection of the corresponding website (www.ombuds.am).

**References:**

Armen Mazmanyan, 2011, "Functioning of judiciary in Armenia," assistant professor, programs director, Legal Resource Center, American University of Armenia. Place of interview: American University of Armenia, Yerevan, Armenia. Date of interview: September 30, 2011.

"Human Rights Defender of the Republic of Armenia," 2011. <http://www.ombuds.am/main/en/> (Accessed September 30, 2011).

**100:** Reports are free to all citizens, or available for the cost of photocopying. Reports can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Reports impose a financial burden on citizens, journalists or NGOs. Retrieving reports may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving reports imposes a major financial burden on citizens. Reports costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

## 5.2. Supreme Audit Institution

58. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

100

58a. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

Yes

No

**Comments:**

The Constitution, Article 83.4, states: "The Control Chamber of the Republic of Armenia shall be an independent body, which shall oversee the use of the budget resources and the state and community property."

The Law on Control Chamber (available in Armenian only) provides detailed descriptions of the functioning of the Control Chamber.

**References:**

Constitution of the Republic of Armenia, 2005, Article 83.4. <http://www.parliament.am/parliament.php?id=constitution> (Accessed August 18, 2011).

National Assembly of the Republic of Armenia, 2006, Law of the Republic of Armenia on Control Chamber. <http://www.parliament.am/legislation.php?sel=show&ID=2835> (Accessed August 18, 2011).

**Yes:** A YES score is earned if there is a specific agency whose primary mandate is to audit and track the movement of money through the government. This agency should be specifically charged to investigate and document the misuse of

funds. A system of agencies located in each department is equivalent.

**No:** A NO score is earned if no such agency exists, or that function is a secondary concern of a larger body, such as the executive.

## 59. Is the supreme audit institution effective?

56

59a. In law, the supreme audit institution is protected from political interference.

Yes

No

### Comments:

Article 1 of the Law on Control Chamber states that the Control Chamber is an independent state body that oversees the budget and state/community property (Point 1) and that it is independent from Republic of Armenia state bodies (Point 2).

### References:

National Assembly of the Republic of Armenia, 2006, Law of the Republic of Armenia on Control Chamber, Article 1, "Control Chamber of the Republic of Armenia". <http://www.parliament.am/legislation.php?sel=show&ID=2835&arm> (Accessed August 18, 2011).

**Yes:** A YES score is earned only if the agency has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

**No:** A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

59b. In practice, the head of the audit agency is protected from removal without relevant justification.

100

75

50

25

0

### Comments:

The Chamber of Control has been restructured in 2007 to reflect the constitutional change, which gave it a special status as an independent body. The current president, appointed by the National Assembly, has been in office since 2007. There have been no removals so far, hence it is hard to judge whether he is protected from unjustified removals. Taking into consideration the overall weakness of the Armenian parliament and its dependency on the executive, it is likely to assume that those appointed by the parliament are not well-protected from political influences.

### References:

Alexander Iskandaryan, 2011, Armenia, Freedom House. <http://www.freedomhouse.org/images/File/nit/2011/NIT-2011-Armenia.pdf> (Accessed August 6, 2011).

Bertelsmann Stiftung, 2009, BTI 2010 — Armenia Country Report, Gütersloh: Bertelsmann Stiftung. <http://www.bertelsmann-transformation-index.de/148.0.html?&L=1> (Accessed August 22, 2011).

**100:** The director of the agency serves a defined term and cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

**75:**

**50:** The director of the agency serves a defined term, but can in some cases be removed through a combination of official or unofficial pressure.

**25:**

**0:** The director of the agency can be removed at the will of political leadership.

59c. In practice, the audit agency has a professional, full-time staff.

100 | **75** | 50 | 25 | 0

**Comments:**

According to the interviewee, the situation with the staff of the Control Chamber is likely to be typical for any other state organization: There are enough people but some of them lack the professional capacity to enable the organization to properly fulfill its mandate.

The existence of professional staff was also verified by inspecting the corresponding section of the Control Chamber website, which provides information regarding 13 chiefs of departments.

According to the OECD report, the Control Chamber has 131 staff members, 87 of whom engage in direct audit. Control Chamber has also recruited 31 specialists. (p. 57)

**References:**

Anonymous civil servant. Date of interview: September 25, 2011. Place of interview: street cafe in Yerevan, Armenia

OECD, 2011, Armenia Monitoring Report, OECD Anti-Corruption Network for Eastern Europe and Central Asia Istanbul Anti-Corruption Action Plan. <http://www.oecd.org/dataoecd/38/51/48964985.pdf> (Accessed November 20, 2011).

Control Chamber of The Republic of Armenia, 2011. <http://www.coc.am/DefaultEng.aspx> (Accessed October 2, 2011).

**100:** The agency has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency has limited staff that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

59d. In practice, audit agency appointments support the independence of the agency.



100 | 75 | 50 | 25 | 0

**Comments:**

The professionalism and the impartiality of the staff of the Control Chamber is questionable. The article by Lusine Barseghyan mentions that the chairman of the Control Chamber has recently built a fashionable private house, the source of income for which is unclear.

**References:**

Lusine Barseghyan, 2011, “Անտեր իմ երկիր ՀՀալաստան.” Հայկական ժամանակ. <http://www.armtimes.com/28173> (Accessed September 29, 2011). Published on September 23, 2011.

Translation: “My Owner-less Country Armenia,” Haykakan Zhamanak (daily newspaper also available online)

**100:** Appointments to the agency are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties.

**25:**

**0:** Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

59e. In practice, the audit agency receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

According to the interviewee, the financing of various governmental structures has never been an issue in Armenia. There is consistent funding that is not used as a tool for political pressure because the pressure can be exercised in many other ways.

The OECD report makes recommendations regarding strengthening of the functions of the Control Chamber; however, regular funding is not a problematic issue.

**References:**

Anonymous civil servant. Date of interview: September 25, 2011. Place of interview: street cafe in Yerevan, Armenia.

OECD, 2011, Armenia Monitoring Report, OECD Anti-Corruption Network for Eastern Europe and Central Asia Istanbul Anti-Corruption Action Plan. <http://www.oecd.org/dataoecd/38/51/48964985.pdf> (Accessed November 20, 2011).

**100:** The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

59f. In practice, the audit agency makes regular public reports.

100 | 75 | 50 | 25 | 0

**Comments:**

The Control Chamber makes reports to the National Assembly and posts them online. The last report to the National Assembly (yearly report for 2010) was in May 2011 and is posted on the Control Chamber website, together with other yearly reports. The section for “current reports” for 2011 contains only one report (done in April, regarding one particular university). This pattern can hardly be described as regular.

**References:**

Control Chamber of The Republic of Armenia, 2011. <http://www.coc.am/DefaultEng.aspx> (Accessed October 2, 2011).

**100:** The agency makes regular, publicly available, substantial reports to the legislature and/or to the public directly outlining the full scope of its work.

**75:**

**50:** The agency makes publicly available reports to the legislature and/or to the public directly that are sometimes delayed or incomplete.

**25:**

**0:** The agency makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

59g. In practice, the government acts on the findings of the audit agency.

100 | 75 | 50 | 25 | 0

**Comments:**

The news article above is an example of unclear steps by the government that follow the findings of the Control Chamber.

An Armenian food producing company received money from the government. By indicating prices higher than actual market price, it received an extra \$200,000. The Control Chamber found that and “several violations by Tamara Fruit in using state funds.” The state took the extra money back but presented it as a “return of saved funds.” No further action was taken.

**References:**

NEWS.am, 2011, “Does Armenian government take back saved or embezzled money from company?” <http://news.am/eng/news/75088.html> (Accessed October 2, 2011). Published on September 22, 2011

**100:** Audit agency reports are taken seriously, with negative findings drawing prompt corrective action.

**75:**

**50:** In most cases, audit agency reports are acted on, though some exceptions may occur for politically sensitive issues, or particularly resistant agencies.

**25:**

**0:** Audit reports are often ignored, or given superficial attention. Audit reports do not lead to policy changes.

59h. In practice, the audit agency is able to initiate its own investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

Some investigations do take place, as the media report from NEWS.am demonstrates, but the will and the capacity of the Control Chamber to investigate and take on politically sensitive issues is highly questionable.

The newspaper article by Lusine Barseghyan describes the journalist's attempt to draw attention to a number of dubious possessions (including a fashionable house belonging to the chair of the Control Chamber), in which a number of governmental structures turned down her request for an investigation.

**References:**

NEWS.am, 2011, "Does Armenian government take back saved or embezzled money from company?" <http://news.am/eng/news/75088.html> (Accessed October 2, 2011).

Lusine Barseghyan, 2011, "Անտեր իմ երկիր ՀՀալաաաաան." Հայկական ժամանակ. <http://www.armtimes.com/28173> (Accessed September 29, 2011). Published on September 23, 2011.  
Translation: "My Owner-less Country Armenia," Haykakan Zhamanak (daily newspaper also available online)

**100:** The supreme audit institution can control the timing and pace of its investigations without any input from the executive or legislature.

**75:**

**50:** The supreme audit institution can generally decide what to investigate, and when, but is subject to pressure from the executive or legislature on politically sensitive issues.

**25:**

**0:** The supreme audit institution must rely on approval from the executive or legislature before initiating investigations. Politically sensitive investigations are almost impossible to move forward on.

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## 60. Can citizens access reports of the supreme audit institution?

67

60a. In law, citizens can access reports of the audit agency.

Yes | No

**Comments:**

Article 27.4 specifies that after discussion at the National Assembly, the yearly report of the Control Chamber is published in the official bulletin and placed on the Control Chamber website.

**References:**

National Assembly of the Republic of Armenia, 2006, Law of the Republic of Armenia on Control Chamber, Article 27, "Control Chamber Yearly Report." Point 4. [http://www.parliament.am/legislation.php?sel=show&ID=2835\\_<=arm](http://www.parliament.am/legislation.php?sel=show&ID=2835_<=arm) (Accessed August 18, 2011).

**Yes:** A YES score is earned if all supreme auditor reports are available to the general public.

**No:** A NO score is earned if any auditor reports are not publicly available. This may include reports made exclusively to the legislature or the executive, which those bodies may choose not to distribute.

60b. In practice, citizens can access audit reports within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Yearly reports are available online, as are "current reports" for years 2008-2010. There is only one report for 2011.

According to Freedom of Information Center studies, it takes about two weeks to obtain information from state bodies in general, though there are not enough statistics to make a judgment on how fast the Control Chamber would respond should citizens request anything in addition to what is online. Given the overall doubts over possible partisanship and cases of embezzlement within the Control Chamber itself (see the news article by Lusine Barseghyan), it is unlikely that politically sensitive information will be made readily available upon request.

**References:**

Control Chamber of The Republic of Armenia, 2011. <http://www.coc.am/DefaultEng.aspx> (Accessed October 2, 2011).

Freedom of Information Center of Armenia, 2001, Implementation Practice of the Access to Information Right, 1st Quarter, 2011. Yerevan, Armenia. <http://www.foi.am/en/research/item/814/> (Accessed August 26, 2011).

Freedom of Information Center of Armenia, 2011, Implementation Practice of the Access to Information Right, 2nd Quarter, 2011. Yerevan, Armenia. [http://www.foi.am/u\\_files/file/FOICA%20Black%20list%20&%20monitoring,%202nd%20%20%20%20quarter%20ENG.pdf](http://www.foi.am/u_files/file/FOICA%20Black%20list%20&%20monitoring,%202nd%20%20%20%20quarter%20ENG.pdf) (Acc August 26, 2011).

Lusine Barseghyan, 2011, "Անտեր իմ երկիր ՀՀալաաաաան." Հայկական ժամանակ. <http://www.armtimes.com/28173> (Accessed September 29, 2011). Published on September 23, 2011.

Translation: "My Owner-less Country Armenia" Haykakan Zhamanak (daily newspaper available online)

**100:** Reports are available on-line, or records can be obtained within two days. Reports are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Reports take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Reports take more than a month to acquire. In some cases, most reports may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

60c. In practice, citizens can access the audit reports at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Reports are available online, so they can be obtained free of charge for most people, with the exception of rural areas and the most disadvantaged sectors of the population.

**References:**

Control Chamber of The Republic of Armenia, 2011. <http://www.coc.am/DefaultEng.aspx> (Accessed October 2, 2011).

**100:** Reports are free to all citizens, or available for the cost of photocopying. Reports can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Reports impose a financial burden on citizens, journalists or NGOs. Retrieving reports may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving reports imposes a major financial burden on citizens. Report costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

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### 74 5.3. Taxes and Customs: Fairness and Capacity

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61. In law, is there a national tax collection agency?

100

61a. In law, is there a national tax collection agency?

Yes | No

**Comments:**

The State Revenue Committee established by the government decision No. 1005 on September 4, 2008, consists of two major divisions: the Tax Service and the Customs Service.

**References:**

Tax Service of the State Revenue Committee.

**Yes:** A YES score is earned if there is a national agency formally mandated to collect taxes.

**No:** A NO score is earned if that function is spread over several agencies, or does not exist. A NO score is earned if national government ministries can collect taxes independently.

## 62. Is the tax collection agency effective?

88

62a. In practice, the tax collection agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

### Comments:

According to the interviewee, there are enough people employed at the Tax Service, but some of them are not professional enough and that hinders the overall performance in terms of staff capacity.

### References:

Anonymous civil servant. Date of interview: September 25, 2011. Place of interview: street cafe in Yerevan, Armenia.

OECD, 2011, Armenia Monitoring Report, OECD Anti-Corruption Network for Eastern Europe and Central Asia Istanbul Anti-Corruption Action Plan. <http://www.oecd.org/dataoecd/38/51/48964985.pdf> (Accessed November 20, 2011).

**100:** The agency has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency has limited staff that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

62b. In practice, the tax agency receives regular funding.

100 | 75 | 50 | 25 | 0

### Comments:

According to the interviewee, the Tax Service receives regular funding.

In general, the Armenian administrative system is fairly well-developed. According to the Bertelsmann report, "Administrative structures operate on many levels of government, and they are generally viewed as competent." This holds for the Tax Service as well. Funding is not a problem.

**References:**

Anonymous civil servant. Date of interview: September, 25 2011. Place of interview: street cafe in Yerevan, Armenia.

Bertelsmann Stiftung, 2009, BTI 2010 — Armenia Country Report, Gütersloh: Bertelsmann Stiftung. <http://www.bertelsmann-transformation-index.de/148.0.html?&L=1> (Accessed August 22, 2011).

**100:** The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

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### 63. In practice, are tax laws enforced uniformly and without discrimination?

25

63a. In practice, are tax laws enforced uniformly and without discrimination?

100 | 75 | 50 | 25 | 0

**Comments:**

According to Anna Walker: "Small and medium-sized enterprises (SMEs) complain that larger businesses with close connections to political circles enjoy significant advantages when it comes to areas such as the enforcement of tax legislation and regulations, putting businesses without these connections at a commercial and financial disadvantage." p. 27

**References:**

Anna Walker, 2011, "Armenia's business environment: Sound legislative framework, poor implementation," in Spotlight on Armenia; ed. Adam Hug, the Foreign Policy Centre, p. 26-28. <http://fpc.org.uk/fsblob/1331.pdf> (Accessed June 5, 2011).

**100:** Tax laws (which may be economically unfair as written) are enforced consistently for all citizens. No general group of citizens is more or less likely to evade tax law than another.

**75:**

**50:** Tax laws are generally enforced consistently, but some exceptions exist. For example, some groups may occasionally evade tax law. Some arbitrary and discriminatory tax rules exist.

**25:**

**0:** Tax law is unequally applied. Some groups of citizens are consistently more or less likely to evade tax law than others. Tax regulations are, as a rule, written to be discriminatory and/or arbitrary.

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### 64. In law, is there a national customs and excise agency?

64a. In law, is there a national customs and excise agency?

Yes

No

**Comments:**

The State Revenue Committee established by the government decision No. 1005 on September 4, 2008, consists of two major divisions: the Tax Service and the Customs Service.

**References:**

Customs Service of State Revenue Committee.

Government of the Republic of Armenia, 2008, Decision on Approval of the Constitution and Staff Structure of the State Revenue Committee, No. 1005, Approved on September 4, 2008. <http://www.arlis.am/> (Accessed August 17, 2011).

**Yes:** A YES score is earned if there is an agency formally mandated to collect excises and inspect customs.

**No:** A NO score is earned if that function is spread over several agencies, or does not exist.

## 65. Is the customs and excise agency effective?

88

65a. In practice, the customs and excise agency has a professional, full-time staff.

100

75

50

25

0

**Comments:**

According to the interviewee, the situation in the Customs Service is similar to that of the Tax Service in that there are enough people employed in terms of numbers, but there is a problem with them not being professional, hindering the fulfillment of the basic mandate.

BTI describes the Armenian administrative sector as fairly well-developed overall. The Customs Service is no exception.

**References:**

Anonymous civil servant. Date of interview: September 25, 2011. Place of interview: street cafe in Yerevan, Armenia.

Bertelsmann Stiftung, 2009, BTI 2010 — Armenia Country Report, Gütersloh: Bertelsmann Stiftung. <http://www.bertelsmann-transformation-index.de/148.0.html?&L=1> (Accessed August 22, 2011).

**100:** The agency has staff sufficient to fulfill its basic mandate.

**75:**



**50:** The agency has limited staff that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

65b. In practice, the customs and excise agency receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

According to the interviewee, there is regular funding available for the Customs Service.

The OECD report touches on the issue of funding in terms of salaries (which are slightly higher than salaries of civil servants due to their special status). Regularity of funding is not discussed as problematic.

**References:**

Anonymous civil servant. Date of interview: September 25, 2011. Place of interview: street cafe in Yerevan, Armenia.

OECD, 2011, Armenia Monitoring Report, OECD Anti-Corruption Network for Eastern Europe and Central Asia Istanbul Anti-Corruption Action Plan. <http://www.oecd.org/dataoecd/38/51/48964985.pdf> (Accessed November 20, 2011).

**100:** The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

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66. In practice, are customs and excise laws enforced uniformly and without discrimination?

0

66a. In practice, are customs and excise laws enforced uniformly and without discrimination?

100 | 75 | 50 | 25 | 0

**Comments:**

Armenian customs law enforcement is very unfair and bribery extortion is common, as the video uploaded on YouTube nicely demonstrates and as was confirmed by the interviewee.

**References:**

YouTube: "Armenia's Customs Agency, What Happens If You Don't Give Bribes." Posted by Anonymous, 2009. <http://www.youtube.com/watch?v=4Q2Mxqpjxs&noredirect=1> (Accessed October 2, 2011).

Anonymous civil servant. Date of interview: September 25, 2011. Place of interview: street cafe in Yerevan, Armenia.

**100:** Customs and excise laws (which may be economically unfair as written) are enforced consistently for all citizens. No general group of citizens is more or less likely to evade customs than another.

**75:**

**50:** Customs and excise laws are generally enforced consistently, but some exceptions exist. For example, some groups may occasionally evade customs requirements.

**25:**

**0:** Customs and excise laws are unequally applied. Some groups of citizens are consistently more or less likely to evade customs and excise laws than others.

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## 5.4. Oversight of State-Owned Enterprises

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67. In law, is there an agency, series of agencies, or equivalent mechanism overseeing state-owned companies?

100

67a. In law, is there an agency, series of agencies, or equivalent mechanism overseeing state-owned companies?

Yes

No

**Comments:**

State decision on establishing the Department of State Property Management, which is in charge of managing state property.

**References:**

Department of State Property Management.

Government of the Republic of Armenia, 2003, Decision on Approval of the Constitution and Staff Structure of the Department of State Property Management, Decision No. 822, adopted June 26, 2003. <http://www.arlis.am/> (Accessed August 17, 2011).

**Yes:** A YES score is earned if there is an agency, series of agencies, or equivalent mechanism tasked with overseeing the conduct and performance of state-owned companies on behalf of the public. A YES score can be earned if several government agencies or ministries oversee different state-owned enterprises. State-owned companies are defined as companies owned in whole or in part by the government.

**No:** A NO score is earned if this function does not exist, or if some state-owned companies are free from government oversight.

68. Is the agency, series of agencies, or equivalent mechanism overseeing state-owned companies effective?

35

68a. In law, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies is protected from political interference.

Yes

No

**Comments:**

According to the Government Decision No. 822, Chapter III, Article 9, the head of the department is appointed by the prime minister, hence the agency is directly subordinate to the executive.

**References:**

Government of the Republic of Armenia, 2003, Decision on Approval of the Constitution and Staff Structure of the Department of State Property Management, Decision No. 822, adopted June 26, 2003, Chapter III, Article 9. <http://www.arlis.am/> (Accessed August 17, 2011).

**Yes:** A YES score is earned only if the agency, series of agencies, or equivalent mechanism has some formal operational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

**No:** A NO score is earned if the agency, series of agencies, or equivalent mechanism is a subordinate part of any government ministry or agency.

68b. In practice, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies has a professional, full-time staff.

100

75

50

25

0

**Comments:**

According to the interviewee, the Department of State Property Management has full-time staff, the professionalism of which might be lacking somewhat, as is the usual pattern in Armenian state structures. No information on the staff structure is available on the institution's website, [http://www.privatization.am/index.php?page=home&hl=en\\_US](http://www.privatization.am/index.php?page=home&hl=en_US).

**References:**

Anonymous civil servant. Date of interview: September 25, 2011. Place of interview: street cafe in Yerevan, Armenia.

**100:** The agency, series of agencies, or equivalent mechanism has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency, series of agencies, or equivalent mechanism has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency, series of agencies, or equivalent mechanism has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

68c. In practice, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

According to the interviewee, the funding of the Department of the State Property Management is stable, following the overall pattern of funding of state institutions in Armenia.

The website of the agency contains reports on past activities and a fairly detailed action plan for the upcoming 2012 year, with a list of activities, time frames and people responsible for implementation. This can be considered an indirect indication of stable funding that allows for planning for the upcoming year.

**References:**

Anonymous civil servant. Date of interview: September 25, 2011. Place of interview: street cafe in Yerevan, Armenia.

Department of State Property Management by the Government of the Republic of Armenia.  
2008. [http://www.privatization.am/index.php?page=home&hl=en\\_US](http://www.privatization.am/index.php?page=home&hl=en_US) (Accessed October 2, 2011).

100: The agency, series of agencies, or equivalent mechanism has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency, series of agencies, or equivalent mechanism has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency functions.

68d. In practice, when necessary, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies independently initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

The Department of State Property Management is a body of minor importance in Armenian policy landscape: There is little information available either about the institution or by the institution itself, meaning that even if investigations do take place, they receive no public resonance. The newspaper article above states that the current head of State Property Management Department is the son of the head of the Republican parliamentary group (which is the current party in power in Armenia). Given the partisan alignment of the head of the department, it is unlikely the agency will carry out nonpartisan investigations.

**References:**

NEWS.am, 2011, "Armenian MP's son appointed Head of State Property Management Department," Published on June 22, 2011. <http://news.am/eng/news/64186.html> (Accessed October 2, 2011).

**100:** When irregularities are discovered, the agency, series of agencies, or equivalent mechanism is aggressive in investigating and/or in cooperating with other investigative bodies.

**75:**

**50:** The agency, series of agencies, or equivalent mechanism starts investigations, but is limited in its effectiveness or in its cooperation with other investigative agencies. The agency, series of agencies, or equivalent mechanism may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency, series of agencies, or equivalent mechanism does not effectively investigate financial irregularities or cooperate with other investigative agencies. The agency, series of agencies, or equivalent mechanism may start investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

68e. In practice, when necessary, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

**Comments:**

Given that the head of the Department of State Property Management is the son of the head of the Republican parliamentary group (the current political party in power in Armenia), the agency is unlikely to act in a nonpartisan manner. Overall, media review shows no results for this institution, suggesting very low public visibility. Most likely, there are no investigations and no penalties as a result. The institution website, <http://www.privatization.am>, contains no information on investigations or penalizing decisions.

**References:**

NEWS.am, 2011, "Armenian MP's son appointed Head of State Property Management Department," Published on June 22, 2011. <http://news.am/eng/news/64186.html> (Accessed October 2, 2011).

**100:** When rules violations are discovered, the agency, series of agencies, or equivalent mechanism is aggressive in penalizing offenders and/or in cooperating with other agencies that impose penalties.

**75:**

**50:** The agency, series of agencies, or equivalent mechanism enforces rules, but is limited in its effectiveness or reluctant to cooperate with other agencies. The agency, series of agencies, or equivalent mechanism may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency, series of agencies, or equivalent mechanism does not effectively penalize offenders or refuses to cooperate with other agencies that enforce penalties. The agency, series of agencies, or equivalent mechanism may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency, series of agencies, or equivalent mechanism may be partisan in its application of power.

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## 69. Can citizens access the financial records of state-owned companies?

69a. In law, citizens can access the financial records of state-owned companies.

Yes | No

**Comments:**

The state decision stipulates that the Department of State Property Management keeps track of state-owned property, does financial analysis of state-owned companies and submits these to the government (Chapter II, Article 8). There are no provisions for public disclosure of such information.

On the other hand, according to the Law on Freedom of Information, Article 3, state budget-sponsored organizations are classified as "information holders," hence are obliged to provide requested information within the framework of the Freedom of Information law.

**References:**

Government of the Republic of Armenia, 2003, Decision on Approval of the Constitution and Staff Structure of the Department of State Property Management, Decision No. 822, adopted June 26, 2003, Chapter II, Article 8; Article 3, Main Concepts Used in the Following Law. <http://www.arlis.am/> (Accessed August 17, 2011).

National Assembly of the Republic of Armenia, 2003, Law of the Republic of Armenia on Freedom of Information. <http://www.parliament.am/legislation.php?sel=show&ID=1390> <=eng (Accessed August 16, 2011).

**Yes:** A YES score is earned if the financial information of all state-owned companies is required by law to be public. State-owned companies are defined as companies owned in whole or in part by the government.

**No:** A NO score is earned if any category of state-owned company is exempt from this rule, or no such rules exist.

69b. In practice, the financial records of state-owned companies are regularly updated.

100 | 75 | 50 | 25 | 0

**Comments:**

State companies are not obliged to publish this information. The Department of State Property Management is supposed to collect and analyze the information but its website is very uninformative. No studies of financial disclosures have been identified.

**References:**

Department of State Property Management by the Government of the Republic of Armenia, 2008. [http://www.privatization.am/index.php?page=home&hl=en\\_US](http://www.privatization.am/index.php?page=home&hl=en_US) (Accessed October 2, 2011).

**100:** State-owned companies always publicly disclose financial data, which is generally accurate and up to date.

**75:**

**50:** State-owned companies disclose financial data, but it is flawed. Some companies may misstate financial data, file the information behind schedule, or not publicly disclose certain data.

**25:**

0: Financial data is not publicly available, or is consistently superficial or otherwise of no value.

69c. In practice, the financial records of state-owned companies are audited according to international accounting standards.

100 | 75 | 50 | 25 | 0

**Comments:**

No information on auditing of state-owned companies is available. Auditing according to international standards is not required and most likely not taking place in Armenian state-owned companies. A media review revealed no relevant information, speaking of zero public visibility but also low salience of the issue in the eyes of the public and the media.

**References:**

Department of State Property Management by the Government of the Republic of Armenia, 2008. [http://www.privatization.am/index.php?page=home&hl=en\\_US](http://www.privatization.am/index.php?page=home&hl=en_US) (Accessed October 2, 2011).

100: Financial records of all state-owned companies are regularly audited by a trained third party auditor using accepted international standards.

75:

50: Financial records of state-owned companies are regularly audited, but exceptions may exist. Some companies may use flawed or deceptive accounting procedures, or some companies may be exempted from this requirement.

25:

0: State-owned companies are not audited, or the audits have no functional value. The auditors may collude with the companies in providing misleading or false information to the public.

69d. In practice, citizens can access the financial records of state-owned companies within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

According to Freedom of Information studies, the overall pattern of obtaining information in Armenia is that it takes around two weeks. There are not enough statistics to make a specific judgment on the case of state-owned companies. An absence of a unified information portal (something the Department of State Property Management could do but is not doing) also contributes to low availability of data.

**References:**

Freedom of Information Center of Armenia, 2001, Implementation Practice of the Access to Information Right, 1st Quarter, 2011, Yerevan, Armenia. <http://www.foi.am/en/research/item/814/> (Accessed August 26, 2011).

Freedom of Information Center of Armenia, 2011, Implementation Practice of the Access to Information Right, 2nd Quarter, 2011, Yerevan, Armenia. [http://www.foi.am/u\\_files/file/FOICA%20Black%20list%20&%20monitoring,%202nd%20%20%20quarter%20ENG.pdf](http://www.foi.am/u_files/file/FOICA%20Black%20list%20&%20monitoring,%202nd%20%20%20quarter%20ENG.pdf) (Accessed August 26, 2011).

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

69e. In practice, citizens can access the financial records of state-owned companies at a reasonable cost.

100 | 75 | **50** | 25 | 0

**Comments:**

Requesting information requires payment equal to the cost of photocopying, except the first 10 pages. Absence of a unified online portal (something Department of State Property Management could do but is not doing) also creates barriers to information availability.

**References:**

Freedom of Information Center of Armenia, 2001, Implementation Practice of the Access to Information Right, 1st Quarter, 2011, Yerevan, Armenia. <http://www.foi.am/en/research/item/814/> (Accessed August 26, 2011).

Freedom of Information Center of Armenia, 2011, Implementation Practice of the Access to Information Right, 2nd Quarter, 2011, Yerevan, Armenia. [http://www.foi.am/u\\_files/file/FOICA%20Black%20list%20&%20monitoring,%202nd%20%20%20%20quarter%20ENG.pdf](http://www.foi.am/u_files/file/FOICA%20Black%20list%20&%20monitoring,%202nd%20%20%20%20quarter%20ENG.pdf) (Acc August 26, 2011).

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.



70a. In law, anyone may apply for a business license.

Yes

No

**Comments:**

The Constitution, Article 33.1, states: "Everyone shall have the right to freedom of enterprise not prohibited by law."

The Law on Licensing, Article 7.1, states: "Legal or natural persons, as well as individual entrepreneurs shall be entitled to perform types of activity subject to licensing."

**References:**

Constitution of the Republic of Armenia, 2005. <http://www.parliament.am/parliament.php?id=constitution> <=eng, Article 33.1

National Assembly of the Republic of Armenia, 2001, Law of the Republic of Armenia on Licensing, Article 7, "The subjects entitled to perform types of activities subject to licensing," Point 1. <http://www.parliament.am/legislation.php?sel=show&ID=1719> <=eng (Accessed August 18, 2011).

**Yes:** A YES score is earned if no particular group or category of citizens is excluded from applying for a business license, when required. A YES score is also earned if basic business licenses are not required.

**No:** A NO score is earned if any group of citizens are categorically excluded from applying for a business license, when required.

70b. In law, a complaint mechanism exists if a business license request is denied.

Yes

No

**Comments:**

Law on Licensing, Article 7.1: "Legal or natural persons, as well as individual entrepreneurs, shall be entitled to perform types of activity subject to licensing."

Law on Licensing, Article 39.1 "The decision on issuing a license ... may be appealed according to judicial procedures or by appealing to higher authorities."

**References:**

Courts or respective institution's superior authority.

Law on Licensing, Article 7.1, also Law on Licensing, Article 39, Point 1.

**Yes:** A YES score is earned if there is a formal process for appealing a rejected license.

**No:** A NO score is earned if no such mechanism exists.

70c. In practice, citizens can obtain any necessary business license (i.e. for a small import business) within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

According to the Doing Business in Armenia report: It takes an average of 15 days to start a company in Armenia.

**References:**

International Finance Corp., 2011, Doing Business 2011, Armenia, Making a Difference for Entrepreneurs, The International Bank for Reconstruction and Development / The World Bank. <http://www.doingbusiness.org/~media/fpdkm/doing%20business/documents/profiles/country/db11/arm.pdf> (Accessed August 4, 2011).

**100:** Licenses are not required, or licenses can be obtained within roughly one week.

**75:**

**50:** Licensing is required and takes around one month. Some groups may be delayed up to a three months

**25:**

**0:** Licensing takes more than three months for most groups. Some groups may wait six months to one year to get necessary licenses.

70d. In practice, citizens can obtain any necessary business license (i.e. for a small import business) at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

According to the Doing Business in Armenia report: The costs of starting a company is 3 percent of income per capita.

**References:**

International Finance Corp., 2011, Doing Business 2011, Armenia, Making a Difference for Entrepreneurs, The International Bank for Reconstruction and Development / The World Bank. <http://www.doingbusiness.org/~media/fpdkm/doing%20business/documents/profiles/country/db11/arm.pdf> (Accessed August 4, 2011).

**100:** Licenses are not required, or licenses are free. Licenses can be obtained at little cost to the organization, such as by mail, or on-line.

**75:**

**50:** Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

**25:**

0: Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

## 71. Are there transparent business regulatory requirements for basic health, environmental, and safety standards?

100

71a. In law, basic business regulatory requirements for meeting public health standards are transparent and publicly available.

Yes

No

### Comments:

The Law on Sanitary Security is available online, but it's very general and makes no provisions for state responsibility to ensure transparency and availability of health standards. The Labor Code, Chapter 23, elaborates on employees' rights for a safe and healthy workplace.

### References:

National Assembly of the Republic of Armenia, 1992, Law of the Republic of Armenia on Ensuring the Sanitary and Epidemic Security of the Population. [http://www.parliament.am/legislation.php?sel=show&ID=2102\\_<=arm&enc=utf8](http://www.parliament.am/legislation.php?sel=show&ID=2102_<=arm&enc=utf8) (Accessed August 18, 2011).

National Assembly of the Republic of Armenia, 2004, Labour Code of the Republic of Armenia, Chapter 23. [http://www.parliament.am/legislation.php?sel=show&ID=2131\\_<=arm](http://www.parliament.am/legislation.php?sel=show&ID=2131_<=arm) (Accessed August 18, 2011).

**Yes:** A YES score is earned if basic regulatory requirements for meeting public health standards are publicly accessible and transparent.

**No:** A NO score is earned if such requirements are not made public or are otherwise not transparent.

71b. In law, basic business regulatory requirements for meeting public environmental standards are transparent and publicly available.

Yes

No

### Comments:

The Law on Environmental Assessment, Article 4, lists the areas where mandatory environmental assessment is carried out by the government. Article 5, "Scope of the Assessment," describes what is being covered by the assessment. The law is available online.

### References:

National Assembly of the Republic of Armenia, 1995, Law of the Republic of Armenia on Environmental Impact Assessment, Article 4, "Intended Activities Subject to Assessment"; Article 5, "Scope of the Assessment." [http://www.parliament.am/legislation.php?sel=show&ID=2115\\_<=eng](http://www.parliament.am/legislation.php?sel=show&ID=2115_<=eng) (Accessed August 18, 2011).

**Yes:** A YES score is earned if basic regulatory requirements for meeting public environmental standards are publicly accessible and transparent.

**No:** A NO score is earned if such requirements are not made public or are otherwise not transparent.

71c. In law, basic business regulatory requirements for meeting public safety standards are transparent and publicly available.

Yes | No

**Comments:**

The Labor Code, Articles 242-248, list safety provisions for the workplace, including that safe work means, furniture, protection from hazardous chemicals and safe work process organization.

**References:**

National Assembly of the Republic of Armenia, 2004, Labor Code of the Republic of Armenia, Chapter 23: Employees Safety and Health, Articles 242-248. <http://www.parliament.am/legislation.php?sel=show&ID=2131> (Accessed August 18, 2011).

**Yes:** A YES score is earned if basic regulatory requirements for meeting public safety standards are publicly accessible and transparent.

**No:** A NO score is earned if such requirements are not made public or are otherwise not transparent.

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## 72. Does government effectively enforce basic health, environmental, and safety standards on businesses?

17

72a. In practice, business inspections by government officials to ensure public health standards are being met and are carried out in a uniform and even-handed manner.

100 | 75 | 50 | 25 | 0

**Comments:**

Public health standards are not ensured uniformly and are often bypassed for businesses that are known to be owned by government officials or their relatives.

The online news article by Voskan Sargsyan tells about a plant that has been operational since the beginning of the year. The director is a president of an electoral district commission. The residents complain about the noise and potential health hazards.

**References:**

Anonymous civil servant. Date of interview: September 25, 2011. Place of interview: street cafe in Yerevan, Armenia.

Voskan Sargsyan, 2011, Hetq Online: "Noyemberyan Manufacturing Plant Has Residents Fuming." <http://hetq.am/eng/articles/8197/noyemberyan-manufacturing-plant-has-residents-fuming.html> (Accessed December 27, 2011).

**100:** Business inspections by the government to ensure that public health standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

**75:**

**50:** Business inspections by the government to ensure public health standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

**25:**

**0:** Business inspections to ensure that public health standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

72b. In practice, business inspections by government officials to ensure public environmental standards are being met are carried out in a uniform and even-handed manner.

100 | 75 | 50 | 25 | 0

**Comments:**

Environmental standards are poorly developed in Armenia and poorly understood. The problems with government inspections of businesses regarding the environmental standards are part of the broader pattern of non-uniformity of business inspections in general. Businesses known to be owned by state figures or their relatives get preferential treatment.

Environmental protection is a constant issue in Armenia. The newspaper article cited above is an example. It describes a gold-processing plant, that, according to environmentalists, does not comply with standards defined in the law.

**References:**

Anonymous civil servant. Date of interview: September 25, 2011. Place of interview: street cafe in Yerevan, Armenia.

Galust Nanyan, 2011, "Greens: Armenia's Prized Lake Threatened by Mining." Environment News Service. <http://www.ens-newswire.com/ens/dec2011/2011-12-13-01.html> (Accessed December 21, 2011).

**100:** Business inspections by the government to ensure that public environmental standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

**75:**

**50:** Business inspections by the government to ensure public environmental standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

**25:**

**0:** Business inspections to ensure that public environmental standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

72c. In practice, business inspections by government officials to ensure public safety standards are being met are carried out in a uniform and even-handed manner.

**Comments:**

This case is similar to the previous two cases. Public safety is routinely bypassed in many cases, especially if businesses are owned by government and state officials and family members are involved in the businesses.

A very short online news report refers to the controversy around a shopping mall being constructed next to a big stadium. Part of the controversy is that according to some sources (the report cites Ministry of Emergency Situations, but gives no names), “constructing a shopping mall in the territory adjacent to “Hrazdan” Stadium ignores security requirements” (for example, the issue of safety for the public in case of fire is being discussed on forums and in comments).

**References:**

Anonymous civil servant. Date of interview: September 25, 2011. Place of interview: street cafe in Yerevan, Armenia.

Ecolur: “Constructing Shopping Mall in territory of ‘Hrazdan’ Stadium to Jeopardize Its Existence” 2011,

Ecolur. <http://www.ecolur.org/en/news/cities/constructing-shopping-mall-in-territory-of-vhrazdanv-stadium-to-jeopardize-its-existence/3268/> (Accessed December 21, 2011).

**100:** Business inspections by the government to ensure that public safety standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

**75:**

**50:** Business inspections by the government to ensure public safety standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

**25:**

**0:** Business inspections to ensure that public safety standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

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Category 6. Anti-Corruption Legal Framework, Judicial Impartiality, and Law Enforcement Professionalism

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## 6.1. <sup>53</sup>Anti-Corruption Law

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73. Is there legislation criminalizing corruption?

67

73a. In law, attempted corruption is illegal.

Yes | No

**Comments:**

According to the analysis presented in the GRECO report, bribery is not explicitly criminalized in Armenian legislation. They make the respective recommendation to amend the Criminal Code (p. 26).

The OECD report also points to the weakness in criminalization of attempted corruption. To quote: "Armenia still has not criminalized offers and promises in bribery." (p 25)

**References:**

GRECO Group of States Against Corruption, 2010, Evaluation Report on Armenia on "Incriminations (ETS 173 and 191, GPC 2)" Theme I, Strasbourg, Third Evaluation Round. [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3\(2010\)4\\_Armenia\\_One\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3(2010)4_Armenia_One_EN.pdf) (Accessed September 1, 2011).

OECD, 2011, Armenia Monitoring Report, OECD Anti-Corruption Network for Eastern Europe and Central Asia Istanbul Anti-Corruption Action Plan. <http://www.oecd.org/dataoecd/38/51/48964985.pdf> (Accessed November 20, 2011).

**Yes:** A YES score is earned if corruption laws include attempted acts.

**No:** A NO score is earned if this is not illegal.

73b. In law, extortion is illegal.

Yes | No

**Comments:**

Article 311.3 of the Criminal Code envisions stricter punishment for an act of corruption committed by extortion; however, extortion is not explicitly criminalized, according to the GRECO report. It makes a recommendation to explicitly criminalize the request for bribes. (page 26)

**References:**

National Assembly of the Republic of Armenia, 2003, Criminal Code of the Republic of Armenia, Article 311.3. [http://www.parliament.am/legislation.php?sel=show&ID=1349\\_<=eng](http://www.parliament.am/legislation.php?sel=show&ID=1349_<=eng) (Accessed August 18, 2011).

GRECO Group of States Against Corruption, 2010, Evaluation Report on Armenia on "Incriminations (ETS 173 and 191, GPC 2)" Theme I, Strasbourg, Third Evaluation Round. [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3\(2010\)4\\_Armenia\\_One\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3(2010)4_Armenia_One_EN.pdf) (Accessed September 1, 2011).

**Yes:** A YES score is earned if corruption laws include extortion. Extortion is defined as demanding favorable treatment (such as a bribe) to withhold a punishment.

**No:** A NO score is earned if this is not illegal.

73c. In law, offering a bribe (i.e. active corruption) is illegal.

Yes | No

**Comments:**

Article 312 envisions punishments for giving a bribe: fines, correctional labor or imprisonment.

**References:**

National Assembly of the Republic of Armenia, 2003, Criminal Code of the Republic of Armenia, Article 312. <http://legislationline.org/download/action/download/id/1655/file/bb9bb21f5c6170dad5efd70578c.htm/preview> (accessed March 8, 2012)

**Yes:** A YES score is earned if offering a bribe is illegal.

**No:** A NO score is earned if this is not illegal.

73d. In law, receiving a bribe (i.e. passive corruption) is illegal.

Yes | No

**Comments:**

Article 311 of the Criminal Code addresses taking bribes. Taking bribes (money or property) by a state official personally or through a proxy is punished by a fine or imprisonment.

**References:**

National Assembly of the Republic of Armenia, 2003, Criminal Code of the Republic of Armenia, Article 311. <http://legislationline.org/download/action/download/id/1655/file/bb9bb21f5c6170dad5efd70578c.htm/preview> (accessed March 8, 2012).

**Yes:** A YES score is earned if receiving a bribe is illegal.

**No:** A NO score is earned if this is not illegal.

73e. In law, bribing a foreign official is illegal.

Yes | No

**Comments:**

Foreign public officials are equated with domestic officials in Article 308.4.1 of the Criminal Code, which states that for the purpose of Articles 311, 312 and 313, an official is also “a public official of a foreign state.” Hence, elements of the offense and the applicable sanctions detailed under bribery of domestic public officials apply accordingly to bribery of foreign public officials.

**References:**

National Assembly of the Republic of Armenia, 2003, Criminal Code of the Republic of Armenia, Articles 308.4.1, 311, 312,



313. <http://www.parliament.am/legislation.php?sel=show&ID=1349> <=eng (Accessed August 18, 2011).

GRECO Group of States Against Corruption, 2010, Evaluation Report on Armenia on "Incriminations (ETS 173 and 191, GPC 2)" Theme I, Strasbourg. Third Evaluation Round. [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3\(2010\)4\\_Armenia\\_One\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3(2010)4_Armenia_One_EN.pdf) (Accessed September 1, 2011).

**Yes:** A YES score is earned if bribing a foreign official is illegal.

**No:** A NO score is earned if this is not illegal.

73f. In law, using public resources for private gain is illegal.

Yes

No

**Comments:**

Article 308 of the Criminal Code envisions punishment (up to imprisonment) for abuse of official authority for personal interest that causes damage to legal interests of citizens, organizations, public or state rights.

**References:**

National Assembly of the Republic of Armenia, 2003, Criminal Code of the Republic of Armenia, Article 308. <http://www.parliament.am/legislation.php?sel=show&ID=1349> <=eng (Accessed August 18, 2011).

**Yes:** A YES score is earned if using public resources for private gain is illegal.

**No:** A NO score is earned if this is not illegal.

73g. In law, using confidential state information for private gain is illegal.

Yes

No

**Comments:**

Using confidential information for private gain is not criminalized.

**References:**

National Assembly of the Republic of Armenia, 2003, Criminal Code of the Republic of Armenia. <http://www.parliament.am/legislation.php?sel=show&ID=1349> <=eng (Accessed August 18, 2011)

**Yes:** A YES score is earned if using confidential state information for private gain is illegal.

**No:** A NO score is earned if this is not illegal.

73h. In law, money laundering is illegal.

Yes

No

**Comments:**

According to the Criminal Code, Article 190.1:

"Financial or other transactions with obviously illegally obtained financial resources or other property for the purpose of using such funds or property for entrepreneurial or other economic activity, to conceal or distort the essence, origin and whereabouts of these assets or rights pertaining to them, their placement, movement or actual identity, is punished with a fine in the amount of 300 to 500 minimal salaries, or with imprisonment for the term of up to four years with or without a fine in the amount of 50 minimal salaries."

**References:**

National Assembly of the Republic of Armenia, 2003, Criminal Code of the Republic of Armenia, Article 190, "Legitimizing (legalizing) illegally obtained income". <http://www.parliament.am/legislation.php?sel=show&ID=1349&lang=eng> (Accessed August 18, 2011).

**Yes:** A YES score is earned if money laundering is illegal. Money laundering is defined as concealing the origin of funds to hide wrongdoing or avoid confiscation.

**No:** A NO score is earned if this is not illegal.

73i. In law, conspiracy to commit a crime (i.e. organized crime) is illegal.

Yes

No

**Comments:**

A crime committed in an organized matter is penalized more strictly than otherwise.

**References:**

National Assembly of the Republic of Armenia, 2003, Criminal Code of the Republic of Armenia, Article 312. <http://www.parliament.am/legislation.php?sel=show&ID=1349&lang=eng> (Accessed August 18, 2011).

**Yes:** A YES score is earned if organized crime is illegal.

**No:** A NO score is earned if this is not illegal.

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## 6.2. Anti-Corruption Agency or Equivalent Mechanisms

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74. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

74a. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

Yes

No

**Comments:**

By decree No. NH-100 on June 1, 2004, the president established the Anti-Corruption Council. Its functions, as defined by the most recent government Anti-Corruption Strategy Plan, are “established for the purpose of coordinating the activities of state bodies involved in the fight against corruption, eliminating the causes of corruption and improving the state policy aimed at preventing corruption.”

**References:**

Anti-Corruption Council.

President of the Republic of Armenia, 2004, Decree to Establish an Anti-Corruption Council, Decree No. NH-100, approved on June 01, 2004. <http://www.arlis.am/> (Accessed August 17, 2011).

Government of the Republic of Armenia, 2009, “The Republic of Armenia Anti-Corruption Strategy and Its Implementation Action Plan for 2009-2012.” <http://www.gov.am/files/docs/437.pdf> (Accessed September 2, 2011).

**Yes:** A YES score is earned if an agency is specifically mandated to address corruption. A YES score is earned if there are several agencies or entities with specific roles in fighting corruption, including special prosecutorial entities.

**No:** A NO score is earned if no agency (or group of agencies/entities) is specifically mandated to prevent or prosecute corruption.

## 75. Is the anti-corruption agency effective?

3

75a. In law, the anti-corruption agency (or agencies) is protected from political interference.

Yes

No

**Comments:**

The Anti-Corruption Council is headed by the prime minister, which is a political position.

Part of the problem lies with what is being understood to be under the Anti-Corruption Agency in the case of Armenia. The 2009 report chose to focus on the Special Investigative Service, a subdivision of the Prosecutor’s Office (which clearly does not qualify as independent). This year’s Report focuses on the Anti-Corruption Council. It is the agency that is usually mentioned first in documents, reports, etc., that describe Armenian anti-corruption policies and strategies. For example, to quote the most recent OECD report: “The institutional framework of specialized anti-corruption policy and coordination bodies has not changed since 2006. It includes two non-permanent bodies – the Anti-Corruption Council and the Anti-Corruption Strategy Implementation Monitoring Commission.” (page 21). This shift of focus from one anti-corruption institution to another can be disputed and potentially leads to inconsistencies with scoring. However, the Anti-Corruption Council comes closer to what is meant by Anti-Corruption Agency in the 2009 Global Integrity Report.

**References:**

President of the Republic of Armenia, 2004, Decree to Establish an Anti-Corruption Council, Decree No. NH-100, adopted on June 1, 2004. <http://www.arlis.am/> (Accessed August 17, 2011).

**Yes:** A YES score is earned only if the agency (or agencies) has some formal organizational or operational independence from the government. A YES score is earned even if the agency/agencies is legally separate but in practice staffed by partisans.

**No:** A NO score is earned if the agency (or agencies) is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department, in such a way that limits its operational independence.

75b. In practice, the anti-corruption agency (or agencies) is protected from political interference.

100 | 75 | 50 | 25 | 0

**Comments:**

C.H. Stefes argues that systemic corruption in Armenia is controlled and perpetuated by the government. Specifically, the president has significant say in nominating the head of the anti-corruption agency. (p. 78)

**References:**

C. H. Stefes, "Governance, the State, and Systemic Corruption: Armenia and Georgia in Comparison," *Caucasian Review of International Affairs* 2(2): p. 73–83, 2008.

**100:** This agency (or agencies) operates independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Investigations can operate without hindrance from the government, including access to politically sensitive information.

**75:**

**50:** This agency (or agencies) is typically independent, yet is sometimes influenced in its work by negative or positive political incentives. This may include favorable or unfavorable public criticism by the government, political appointments, or other forms of influence. The agency (or agencies) may not be provided with some information needed to carry out its investigations.

**25:**

**0:** This agency (or agencies) is commonly influenced by political or personal incentives. These may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. The agency (or agencies) cannot compel the government to reveal sensitive information.

75c. In practice, the head of the anti-corruption agency (or agencies) is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

**Comments:**

The Anti-Corruption Council is created by president's decree and headed by the prime minister. It's a political position that can change with realignment of political powers.

**References:**

President of the Republic of Armenia, 2004, Decree to Establish an Anti-Corruption Council, Decree No. NH-100, adopted on June 1, 2004. <http://www.arlis.am/> (Accessed August 17, 2011).

**100:** The director(s) cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

**75:**

**50:** The director(s) can in some cases be removed through a combination of official or unofficial pressure.

**25:**

**0:** The director(s) can be removed at the will of political leadership.

75d. In practice, appointments to the anti-corruption agency (or agencies) are based on professional criteria.

100 | 75 | 50 | 25 | 0

**Comments:**

Apart from the prime minister, the Anti-Corruption Council consists of the National Assembly deputy chair, minister of justice, and a number of other state officials.

**References:**

President of the Republic of Armenia, 2004, Decree to Establish an Anti-Corruption Council, Decree No. NH-100, adopted on June 1, 2004. <http://www.arlis.am/> (Accessed August 17, 2011).

**100:** Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

**25:**

**0:** Appointments are often based on political considerations. Individuals appointed often have conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

75e. In practice, the anti-corruption agency (or agencies) has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

The council consists of high state officials (prime minister, ministers, the head of the central bank, etc.) who supposedly can use their respective staffs to assist them, but there are no specific provisions for staff members full time and professionally involved in Anti-Corruption Council activities.

**References:**

President of the Republic of Armenia, 2004, Decree to Establish an Anti-Corruption Council, Decree No. NH-100, adopted on June 1, 2004. <http://www.arlis.am/> (Accessed August 17, 2011).

**100:** The agency (or agencies) has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency (or agencies) has limited staff, or staff without necessary qualifications to fulfill its basic mandate.

**25:**

**0:** The agency (or agencies) has no staff, or a limited staff, that is clearly unqualified to fulfill its mandate.

75f. In practice, the anti-corruption agency (or agencies) receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

No specific funding is envisioned for the Anti-Corruption Council in the budget.

**References:**

National Assembly of the Republic of Armenia. 2010. Law of the Republic of Armenia on State Budget of the Republic of Armenia 2011. [www.arlis.am](http://www.arlis.am) (Accessed October 20, 2011).

**100:** The agency (or agencies) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency (or agencies) has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** The agency's funding sources are unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

75g. In practice, the anti-corruption agency (or agencies) makes regular public reports.

100 | 75 | 50 | 25 | 0

**Comments:**

The Anti-Corruption Council does not issue reports or public statements. Its last meeting was briefly covered in the media; the report cited above does not contain any specific details, except what issues the council discussed (rather technical).

**References:**

PanARMENIAN.Net, 2010. "Armenian government hosts anti-corruption council session." [http://www.panarmenian.net/eng/politics/news/55128/Armenian\\_government\\_hosts\\_anticorruption\\_council\\_session](http://www.panarmenian.net/eng/politics/news/55128/Armenian_government_hosts_anticorruption_council_session) (Accessed October 2, 2011). Published on October 12, 2010

**100:** The agency (or agencies) makes regular, publicly available, substantial reports to the legislature and/or to the public directly outlining the full scope of its work.

**75:**

**50:** The agency (or agencies) makes publicly available reports to the legislature that are sometimes delayed or incomplete.

**25:**

**0:** The agency (or agencies) makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

75h. In practice, the anti-corruption agency (or agencies) has sufficient powers to carry out its mandate.

100 | 75 | 50 | 25 | 0

**Comments:**

The Anti-Corruption Council consists of state officials (prime minister, ministers, etc.). As such, it does have some power, but this power is highly dependent on the political will of the government to fight corruption.

**References:**

President of the Republic of Armenia, 2004, Decree to Establish an Anti-Corruption Council. <http://www.arlis.am/> (Accessed August 17, 2011).

**100:** The agency (or agencies) has powers to gather information, including politically sensitive information. The agency (or agencies) can question suspects, order arrests and bring suspects to trial (or rely on related agencies or law enforcement authorities to perform such functions).

**75:**

**50:** The agency (or agencies) has most of the powers needed to carry out its mandate with some exceptions.

**25:**

**0:** The agency (or agencies) lacks significant powers which limit its effectiveness.

75i. In practice, when necessary, the anti-corruption agency (or agencies) independently initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

No investigations are envisioned, nor are they initiated by the council, which is a body consisting of top government officials.

**References:**

President of the Republic of Armenia, 2004, Decree to Establish an Anti-Corruption Council. <http://www.arlis.am/> (Accessed August 17, 2011).

**100:** When irregularities are discovered, the agency (or agencies) is aggressive in investigating the government or in cooperating with other investigative agencies.

**75:**

**50:** The agency (or agencies) starts investigations, but is limited in its effectiveness or is reluctant to cooperate with other investigative agencies. The agency (or agencies) may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency (or agencies) does not effectively investigate or does not cooperate with other investigative agencies. The agency (or agencies) may start investigations but not complete them, or may fail to detect offenders. The agency (or agencies) may be partisan in its application of power.

---

## 76. Can citizens access the anti-corruption agency?

0

76a. In practice, the anti-corruption agency (or agencies) acts on complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

The mandate of the Anti-Corruption Council does not envision acting on corruption complaints.

**References:**

President of the Republic of Armenia, 2004, Decree to Establish an Anti-Corruption Council. <http://www.arlis.am/> (Accessed August 17, 2011).

**100:** The agency (or agencies) acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

**75:**

**50:** The agency (or agencies) acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

**25:**

**0:** The agency (or agencies) cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.



76b. In practice, citizens can complain to the anti-corruption agency (or agencies) without fear of recrimination.

100 | 75 | 50 | 25 | 0

**Comments:**

The Anti-Corruption Council, consisting of high government officials such as the prime minister and some ministers, is not envisioned as a body to which a citizen can complain.

In general, the Transparency International report shows that whistle-blowers in Armenia are not protected.

**References:**

President of the Republic of Armenia, 2004, Decree to Establish an Anti-Corruption Council. <http://www.arlis.am/> (Accessed August 17, 2011).

Transparency International Anti-Corruption Center, 2011, European Neighborhood Policy: Monitoring Armenia's Anti-corruption Commitments 2010, Yerevan, Armenia. <http://transparency.am/publication.php?id=41> (Accessed August 25, 2011).

**100:** Whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers, or may be due to a culture that encourages disclosure and accountability.

**75:**

**50:** Whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

**25:**

**0:** Whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

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34  
6.3. Judicial Independence, Fairness, and Citizen Access to Justice

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77. Is there an appeals mechanism for challenging criminal judgments?

50

77a. In law, there is a general right of appeal.

Yes | No

**Comments:**

According to the Constitution, Article 20: "Every convicted person shall have the right to review of the judgment passed on him/her by a higher instance court in conformity with the procedure prescribed by the law."

The Criminal Procedure Code, Article 103, "Freedom for Appealing the Procedure Actions and Decisions," states:

"1. The actions and decisions of the body, conducting criminal trial, may be appealed by the participants of the trial, in the manner, prescribed by this Code. The actions and decisions of the inquiry body officer and the investigator may be appealed to a respective prosecutor, the actions and decisions of the prosecutor to a superior prosecutor, the court, to a superior court. In cases, prescribed by this Code, the appeal on the actions and decisions of the body of criminal prosecution may be appealed at a court. ...

"7. Every convict is entitled to the review of the court verdict by a superior court as established in this Code.

"8. Every convict is entitled in accordance with international agreements of the Republic of Armenia, to appeal to interstate bodies for protection of human rights and freedoms, all other procedure means envisaged in law have been exhausted."

**References:**

Constitution of the Republic of Armenia, 2005, Article 20. <http://www.parliament.am/parliament.php?id=constitution&lang=eng>.

National Assembly of the Republic of Armenia, 1998, Criminal Procedure Code of the Republic of Armenia, Article 103, "Freedom for Appealing the Procedure Actions and Decisions". <http://www.parliament.am/legislation.php?sel=show&ID=1450&lang=eng> (Accessed August 18, 2011).

**Yes:** A YES score is earned if there is a formal process of appeal for challenging criminal judgments.

**No:** A NO score is earned if there is no such process.

77b. In practice, appeals are resolved within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Appeals take unpredictable times to resolve, go unacknowledged or are being refused. The news report cited above is an example of an appeal by an opposition paper, which was being rejected (i.e. "thrown out").

**References:**

Karen Aslanian, 2011, "Armenian News: High Court Rejects Libel Appeal By Opposition Daily." <http://www.armtown.com/news/en/rfe/20110913/24327294/> (Accessed October 2, 2011).

**100:** Appeals are acted upon quickly. While some backlog is expected and inevitable, appeals are acknowledged promptly and cases move steadily towards resolution.

**75:**

**50:** Appeals are generally acted upon quickly but with some exceptions. Some appeals may not be acknowledged, and simple cases may take years to resolve.

**25:**

**0:** Most appeals are not resolved in a timely fashion. Appeals may go unacknowledged for months or years and simple cases may never be resolved.

77c. In practice, citizens can use the appeals mechanism at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

According to Gevorg Hayrapetyan, the costs of using the court services are affordable. For example, it costs about \$11 to bring a case to a court.

To bring a court case to a higher instance court, one has to pay a tax that varies (\$20-60).

One has to keep in mind that these are the official costs. There are unofficial costs related to corruption in the judicial system.

**References:**

Gevorg Hayrapetyan, 2011, "Access to Information," lawyer at Freedom of Information Center, Yerevan, Armenia. Date of interview: August 29, 2011. Place of interview: Freedom of Information Center office.

Armen Mazmanyan, 2011, assistant professor at the American University of Armenia, Department of Law. Email on December 20, 2011.

**100:** In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge criminal judgments. Attorney fees are not a barrier to appeals.

**75:**

**50:** In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge criminal judgments. Attorney fees present somewhat of a barrier to pursuing appeal.

**25:**

**0:** The prohibitive cost of utilizing the appeals mechanism prevents middle class citizens from challenging criminal judgments. Attorney fees greatly discourage the use of the appeals process.

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## 78. In practice, do judgments in the criminal system follow written law?

0

78a. In practice, do judgments in the criminal system follow written law?

100 | 75 | 50 | 25 | 0

**Comments:**

According to the American Bar Association report, improper influence and corruption persist in the judiciary. Sometimes judges know how to decide a case without being told, such as when the state has an interest in the outcome or when a business associated with government officials is involved. Corruption is widespread.

U.S. State HR report: Courts remained subject to political pressure from the executive branch as well as the self-imposed expectation that judges would find the accused guilty in almost every case. Although judicial corruption continued to exist, courtroom observers believe it occurred less frequently than in the past. Many judges felt compelled to work with prosecutors to achieve convictions. Judges were reluctant to challenge police experts or hold the prosecution accountable for meeting an appropriately high standard of guilt, thereby hampering the defendant's ability to mount a credible defense.

**References:**

American Bar Association, 2008, Judicial Reform Index for Armenia Volume III. Washington, D.C.. [http://apps.americanbar.org/rol/publications/armenia\\_judicial\\_reform\\_index\\_01\\_08\\_eng.pdf](http://apps.americanbar.org/rol/publications/armenia_judicial_reform_index_01_08_eng.pdf) (Accessed August 24, 2011).

U.S. Department of State, 2011, "2010 Human Rights Report: Armenia." <http://www.state.gov/g/drl/rls/hrrpt/2010/eur/154411.htm> (Accessed August 24, 2011).

**100:** Judgments in the criminal system are made according to established legal code and conduct. There are no exceptional cases in which individuals are treated by a separate process. Political interference, bribery, cronyism or other flaws are rarely factors in judicial outcomes.

**75:**

**50:** Judgments in the criminal system usually follow the protocols of written law. There are sometimes exceptions when political concerns, corruption or other flaws in the system decide outcomes.

**25:**

**0:** Judgments in the criminal system are often decided by factors other than written law. Bribery and corruption in the criminal judicial process are common elements affecting decisions.

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## 79. In practice, are judicial decisions enforced by the state?

25

79a. In practice, are judicial decisions enforced by the state?

100 | 75 | 50 | 25 | 0

**Comments:**

According to the Transparency International report, the enforcement suffers from a lack of professionalism.

The Armenian judiciary branch overall suffers from lack of independence from political power and corruption (Freedom House and Bertelsmann reports). This has an impact on the enforcement aspect of its activities as well.

**References:**

Transparency International Anti-Corruption Center, 2011, European Neighborhood Policy: Monitoring Armenia's Anti-corruption Commitments 2010. Yerevan, Armenia. <http://transparency.am/publication.php?id=41> (Accessed August 25, 2011).

Freedom House, "Armenia 2011: Freedom in the World." <http://www.freedomhouse.org/> (Accessed September 19, 2011).

Bertelsmann Stiftung, 2009, BTI 2010 — Armenia Country Report, Gütersloh: Bertelsmann Stiftung. <http://www.bertelsmann-transformation-index.de/148.0.html?&L=1> (Accessed August 22, 2011).

**100:** Judicial decisions are enforced quickly regardless of what is being decided or who is appearing before the court. Failure to comply brings penalties enforced by the state.

**75:**

**50:** Judicial decisions are generally enforced by the state, with some exceptions. Certain areas of law may be ignored, or certain parties appearing before the courts may evade or delay enforcement.

**25:**

0: Judicial decisions are often ignored. The state lacks the will or capacity to consistently enforce these decisions.

## 80. Is the judiciary able to act independently?

75

80a. In law, the independence of the judiciary is guaranteed.

Yes

No

### Comments:

Article 94 of the Constitution states: The independence of courts shall be guaranteed by the Constitution and laws.

According to the Judicial Code, Article 9, "Autonomy of the Judiciary":

"1. The judiciary shall be autonomous.

2. Self-governance of the judiciary shall be performed through self-governing bodies defined by this Code.

### References:

Constitution of the Republic of Armenia, 2005. <http://www.parliament.am/parliament.php?id=constitution&lang=eng>. Article 94

National Assembly of the Republic of Armenia, 2007, Judicial Code of the Republic of Armenia, Article 9, "Autonomy of the Judiciary". <http://www.parliament.am/legislation.php?sel=show&ID=2966&lang=eng> (Accessed August 18, 2011).

**Yes:** A YES score is earned if there are formal rules establishing that the judiciary is independent from political interference by the executive and legislative branches. Independence includes financial issues (drafting, allocation, and managing the budget of the courts).

**No:** A NO score is earned if there are no formal rules establishing an independent judiciary.

80b. In practice, national-level judges are protected from political interference.

100

75

50

25

0

### Comments:

According to Freedom House, the judiciary is subject to political pressure from the executive.

The Bertelsmann Stiftung BTI assessment states that "officially, although an independent judiciary does exist in Armenia, it is still largely subordinate to and overly compliant to the demands of the executive branch, which is unquestionably the strongest and most dominant of the branches of government."

Radio Free Europe published an interview with a sacked judge who said that "many judges are more concerned with not upsetting senior government officials than with enforcing laws," and claimed he was fired because he passed a decision that was not desirable to his superiors.

The Transparency International report statements are similar to those of Freedom House and BTI, stressing a lack of judiciary independence in Armenia.

The Global Competitiveness Report notes that in terms of judicial independence, Armenia is 118th out of 139 countries: There are only 21 countries in the world (included in the study) that are worse than Armenia.

**References:**

Freedom House, "Armenia 2011: Freedom in the World." <http://www.freedomhouse.org/> (Accessed September 19, 2011).

Bertelsmann Stiftung, 2009, BTI 2010 — Armenia Country Report, Gütersloh: Bertelsmann Stiftung. <http://www.bertelsmann-transformation-index.de/148.0.html?&L=1> (Accessed August 22, 2011).

Radio Free Europe Radio Liberty, 2011, "Sacked Judge Slams Armenian Judiciary." [http://www.rferl.org/content/sacked\\_judge\\_slams\\_armenian\\_judiciary/24281924.html](http://www.rferl.org/content/sacked_judge_slams_armenian_judiciary/24281924.html) (Accessed August 25, 2011).

Transparency International Anti-Corruption Center, 2011, European Neighborhood Policy: Monitoring Armenia's Anti-corruption Commitments 2010, Yerevan, Armenia. <http://transparency.am/publication.php?id=41> (Accessed August 25, 2011).

Global Competitiveness Report 2010-2011, 2010, Geneva, Switzerland: World Economic Forum. [http://www3.weforum.org/docs/WEF\\_GlobalCompetitivenessReport\\_2010-11.pdf](http://www3.weforum.org/docs/WEF_GlobalCompetitivenessReport_2010-11.pdf) (Accessed September 1, 2011).

**100:** National-level judges operate independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Judges never comment on political debates. Individual judgments are rarely praised or criticized by political figures.

**75:**

**50:** National-level judges are typically independent, yet are sometimes influenced in their judgments by negative or positive political incentives. This may include favorable or unfavorable treatment by the government or public criticism. Some judges may be demoted or relocated in retaliation for unfavorable decisions.

**25:**

**0:** National-level judges are commonly influenced by politics and personal biases or incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include demotion, pay cuts, relocation, threats or harassment.

80c. In law, there is a transparent and objective system for distributing cases to national-level judges.

Yes

No

**Comments:**

The process is regulated by Decision No. 10 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.

**References:**

Council of Chairs of the Courts of the Republic of Armenia, 2009, Decision to Amend Decision No. 16 of the Year 2007, Decision No. 10, adopted July 16, 2009. <http://www.arlis.am/> (Accessed August 17, 2011).

Transparency International Anti-Corruption Center, 2011, European Neighborhood Policy: Monitoring Armenia's Anti-corruption Commitments 2010, Yerevan, Armenia. <http://transparency.am/publication.php?id=41> (Accessed August 25, 2011).

**Yes:** A YES score is earned if there is an objective system that is transparent to the public that equitably or randomly assigns cases to individual judges. The executive branch does not control this process.

**No:** A NO score is earned if the case assignment system is non-transparent or subjective where judges themselves have influence over which cases they adjudicate. A NO score is also earned if the executive branch controls this process.

80d. In law, national-level judges are protected from removal without relevant justification.

Yes

No

**Comments:**

According to the Judicial Code: Judges have guaranteed tenure and serve until the retirement age of 65, subject to dismissal for a grave disciplinary offense or repeated offenses incompatible with a judicial position.

Members of the Constitutional Court serve until they reach the age of 65 and are subject to removal only on the grounds and in the manner specified by law (Constitution, Article 96, Law on the Constitutional Court, Article 10).

**References:**

National Assembly of the Republic of Armenia, 2007, Judicial Code of the Republic of Armenia, Articles 14.1, 14.2, 157.1, 157.4. <http://www.parliament.am/legislation.php?sel=show&ID=2966&lang=eng> (Accessed August 18, 2011).

Constitution of the Republic of Armenia, 2005, Article 96. <http://www.parliament.am/parliament.php?id=constitution&lang=eng>.

National Assembly of the Republic of Armenia, 2006, Law of the Republic of Armenia on the Constitutional Court, Article 10. [http://www.concourt.am/english/law\\_cc/index.htm](http://www.concourt.am/english/law_cc/index.htm) (Accessed August 18, 2011).

**Yes:** A YES score is earned if there are specific, formal rules for removal of a justice. Removal must be related to abuse of power or other offenses related to job performance.

**No:** A NO score is earned if justices can be removed without justification, or for purely political reasons. A NO score is earned if the removal process is not transparent, or not based on written rules.

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## 81. Are judges safe when adjudicating corruption cases?

100

81a. In practice, in the last year, no judges have been physically harmed because of adjudicating corruption cases.

Yes

No

**Comments:**

Transparency International reports no cases of physical violence against judges. A media review revealed no cases of judges being attacked.

**References:**

Transparency International Anti-Corruption Center, 2011, European Neighborhood Policy: Monitoring Armenia's Anti-corruption Commitments 2010, Yerevan, Armenia. <http://transparency.am/publication.php?id=41> (Accessed August 25, 2011).

**Yes:** A YES score is earned if there were no documented cases of judges being assaulted because of their involvement in a corruption case during the specific study period. YES is a positive score.

**No:** A NO score is earned if there were any documented cases of assault to a judge related to his/her participation in a corruption trial. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

81b. In practice, in the last year, no judges have been killed because of adjudicating corruption cases.

Yes | No

**Comments:**

Transparency International reports no judges being killed in Armenia for whatever reasons. Media review also shows no deaths of judges.

**References:**

Transparency International Anti-Corruption Center, 2011, European Neighborhood Policy: Monitoring Armenia's Anti-corruption Commitments 2010, Yerevan, Armenia. <http://transparency.am/publication.php?id=41> (Accessed August 25, 2011).

**Yes:** A YES score is earned if there were no documented cases of judges being killed related to their involvement in a corruption case during the study period. YES is a positive score.

**No:** A NO score is earned if there were any documented cases where a judge was killed because of his/her participation in a corruption trial. The relationship between a mysterious death and a judge's involvement in a case may not be clear, however the burden of proof here is low. If it is a reasonable assumption that a judge was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

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## 82. Do citizens have equal access to the justice system?

57

82a. In practice, judicial decisions are not affected by racial or ethnic bias.

100 | 75 | 50 | 25 | 0

**Comments:**

According to BTI, ethnic discrimination is not one of Armenia's many problems. This can be said about the justice system in general, as well.

**References:**

Bertelsmann Stiftung, 2009, BTI 2010 — Armenia Country Report, Gütersloh: Bertelsmann Stiftung. <http://www.bertelsmann-transformation-index.de/148.0.html?&L=1> (Accessed August 22, 2011).

**100:** Judicial decisions are not affected by racial or ethnic bias.

**75:**

**50:** Judicial decisions are generally not affected by racial or ethnic bias, with some exceptions. Some groups may be occasionally discriminated against, or some groups may occasionally receive favorable treatment.



25:

0: Judicial decisions are regularly distorted by racial or ethnic bias. Some groups consistently receive favorable or unfavorable treatment by the courts.

82b. In practice, women have full access to the judicial system.

100 | 75 | 50 | 25 | 0

**Comments:**

The overall cultural stereotypes related to women in Armenian society probably influence the way judges perceive women; however, since the entire system is corrupt and dependent on political power, it's not the gender that matters in judicial proceedings, but rather paid bribes and connections.

**References:**

American Bar Association, 2008, Judicial Reform Index for Armenia Volume III. Washington, D.C. [http://apps.americanbar.org/rol/publications/armenia\\_judicial\\_reform\\_index\\_01\\_08\\_eng.pdf](http://apps.americanbar.org/rol/publications/armenia_judicial_reform_index_01_08_eng.pdf) (Accessed August 24, 2011).

Bertelsmann Stiftung, 2009, BTI 2010 — Armenia Country Report, Gütersloh: Bertelsmann Stiftung. <http://www.bertelsmann-transformation-index.de/148.0.html?&L=1> (Accessed August 22, 2011).

Freedom House, "Armenia 2011: Freedom in the World." <http://www.freedomhouse.org/> (Accessed September 19, 2011).

**100:** Women enjoy full and equal status in the eyes of the courts. There are no exceptions or practices in which women are treated differently by the judicial system. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

**75:**

**50:** Women generally have use of the judicial system, with some exceptions. In some cases, women may be limited in their access to courts, or gender biases may affect court outcomes. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

**25:**

**0:** Women generally have less access to the courts than men. Court decisions are commonly distorted by gender bias. Women may have to go through intermediaries to interact with the court, or are unable to present evidence. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

82c. In law, the state provides legal counsel for defendants in criminal cases who cannot afford it.

Yes | No

**Comments:**

The Constitution, Article 20, states: "Everyone shall be entitled to legal assistance. In cases prescribed by the law the legal assistance shall be provided at the expense of the state resources."

Law on Advocacy, Article 6: "The state shall ensure free legal assistance for criminal cases following the procedure prescribed by the Criminal Procedure Code of the Republic of Armenia and also the procedure prescribed by the RA Civil Procedure Code in the following cases:

1) cases on levying alimony.

2) cases on compensation for losses incurred upon mutilation or other types of damage to health or upon death of bread-winner of the family.

Free legal assistance shall be provided by the Chamber of Advocates at the state's expense, following the procedure set forth in articles 41-42 of this law.

Free legal services can be provided also at the advocate's initiative. "

#### References:

Constitution of the Republic of Armenia, 2005. <http://www.parliament.am/parliament.php?id=constitution&lang=eng>. Article 20

National Assembly of the Republic of Armenia, 2004, Law of the Republic of Armenia on Advocacy, Article

6. <http://www.parliament.am/legislation.php?sel=show&ID=2255&lang=rus> (Accessed August 18, 2011).

**Yes:** A YES score is earned if the government is required by law to provide impoverished defendants with legal counsel to defend themselves against criminal charges.

**No:** A NO score is earned if there is no legal requirement for the government to provide impoverished defendants with legal counsel to defend themselves against criminal charges.

82d. In practice, the state provides adequate legal counsel for defendants in criminal cases who cannot afford it.

100 | 75 | 50 | 25 | 0

#### Comments:

Transparency International reports that legal assistance is often lacking because defendants are not informed of their right to have a free legal counsel. The quality of public defense is far from satisfactory.

The U.S. Human Rights report states that the government's obligation to provide a public defender was frequently not honored in regions outside of Yerevan, where there often were not enough defense lawyers. Reportedly, defendants would at times refuse their public defenders because of the perception that public defenders colluded with prosecutors.

#### References:

Transparency International Anti-Corruption Center, 2011, European Neighborhood Policy: Monitoring Armenia's Anti-corruption Commitments 2010, Yerevan, Armenia. <http://transparency.am/publication.php?id=41> (Accessed August 25, 2011).

U.S. Department of State, 2011, "2010 Human Rights Report:

Armenia." <http://www.state.gov/g/drl/rls/hrrpt/2010/eur/154411.htm> (Accessed August 24, 2011).

**100:** State-provided legal aid is basic, but well-trained and effective in representing the rights of impoverished defendants.

**75:**

**50:** State-provided legal aid is available, but flawed. Legal aid may be unavailable to some impoverished defendants. Legal aid/public defenders may be sometimes unable or unwilling to competently represent all defendants.

**25:**

**0:** State-provided legal aid is unavailable to most impoverished defendants. State legal aid/public defenders may be consistently incompetent or unwilling to fairly represent all defendants.

82e. In practice, citizens earning the median yearly income can afford to bring a legal suit.

100 | 75 | 50 | 25 | 0

**Comments:**

It costs about \$11 to bring a legal suit. Of course, there will be other costs associated with a legal suit as well, especially if a citizen wants to hire a high-quality advocate. On the other hand, there are some NGOs that offer legal assistance free of charge.

**References:**

Gevorg Hayrapetyan, 2011, "Access to Information," lawyer at Freedom of Information Center, Yerevan, Armenia. Date of interview: August 29, 2011. Place of interview: Freedom of Information Center office.

Armen Mazmanyan, 2011, Assistant professor at the American University of Armenia, Department of Law. Email on December 20, 2011.

**100:** In most cases, the legal system is an affordable option to middle class citizens seeking to redress a grievance. Attorney fees do not represent a major cost to citizens.

**75:**

**50:** In some cases, the legal system is an affordable option to middle class citizens seeking to redress a grievance. In other cases, the cost is prohibitive. Attorney fees are a significant consideration in whether to bring a case.

**25:**

**0:** The cost of engaging the legal system prevents middle class citizens from filing suits. Attorney fees are high enough to discourage most citizens from bringing a case.

82f. In practice, a typical small retail business can afford to bring a legal suit.

100 | 75 | 50 | 25 | 0

**Comments:**

The cost of bringing the case to the court is about \$11, but there are other costs associated with a legal suit (filing an appeal, for example). If the business wants to have a high-quality advocate, that would also incur additional expenses.

**References:**

Gevorg Hayrapetyan, 2011, "Access to Information," lawyer at Freedom of Information Center, Yerevan, Armenia. Date of interview: August 29, 2011. Place of interview: Freedom of Information Center office.

Armen Mazmanyan, 2011, Assistant professor at the American University of Armenia, Department of Law. Email on December 20, 2011.

**100:** In most cases, the legal system is an affordable option to a small retail business seeking to redress a grievance. Attorneys fees do not represent a major cost to small businesses.

**75:**

**50:** In some cases, the legal system is an affordable option to a small retail business seeking to redress a grievance. In other cases, the cost is prohibitive. Attorney fees are a significant consideration in whether to bring a case.

**25:**

**0:** The cost of engaging the legal system prevents small businesses from filing suits. Attorney fees are high enough to discourage most small businesses from bringing a case.

82g. In practice, all citizens have access to a court of law, regardless of geographic location.

100 | 75 | **50** | 25 | 0

**Comments:**

According to the American Bar Association report, courthouses in Armenia, particularly newer ones, are generally conveniently located and easy for people to find.

**References:**

American Bar Association, 2008, Judicial Reform Index for Armenia, Volume III, Washington, D.C. [http://apps.americanbar.org/rol/publications/armenia\\_judicial\\_reform\\_index\\_01\\_08\\_eng.pdf](http://apps.americanbar.org/rol/publications/armenia_judicial_reform_index_01_08_eng.pdf) (Accessed August 24, 2011).

**100:** Courtrooms are always accessible to citizens at low cost, either through rural courthouses or through a system of traveling magistrates.

**75:**

**50:** Courts are available to most citizens. Some citizens may be unable to reach a courtroom at low cost due to location.

**25:**

**0:** Courts are unavailable to some regions without significant travel on the part of citizens.

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## 6.4. Law Enforcement: Conflicts of Interest Safeguards and Professionalism

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83. Is the law enforcement agency (i.e. the police) effective?

42

83a. In practice, appointments to the law enforcement agency (or agencies) are made according to professional criteria.

100 | 75 | 50 | 25 | 0

**Comments:**

Since corruption and nepotism are significant problems in Armenian police (Bertelsmann report, also confirmed by an interview with a civil servant), it is hard to expect the appointments to be made based on professional qualifications. There has been a corruption scandal in the Armenian police recently, in which a traffic police commander was fired after charges of embezzling 57 million AMD (approximately \$150,000) were leveled against him.

**References:**

Anonymous civil servant. Date of interview: September 25, 2011. Place of interview: street cafe in Yerevan, Armenia.

Bertelsmann Stiftung, 2009, BTI 2010 — Armenia Country Report, Gütersloh: Bertelsmann Stiftung. <http://www.bertelsmann-transformation-index.de/148.0.html?&L=1> (Accessed August 22, 2011).

Hetq online, 2011, "New Traffic Police Commander Picked." <http://hetq.am/eng/news/4119/> (Accessed October 2, 2011). Published on September 6, 2011.

**100:** Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

**25:**

**0:** Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

83b. In practice, the law enforcement agency (or agencies) has a budget sufficient to carry out its mandate.

100 | 75 | 50 | 25 | 0

**Comments:**

According to the interviewee, the police have enough of a budget.

The review of the budget documents (in Armenian) for the past and the upcoming year on the website of the Armenian government shows that money is regularly being allocated to the police.

**References:**

Anonymous civil servant. Date of interview: September 25, 2011. Place of interview: street cafe in Yerevan, Armenia.

The government of the Republic of Armenia. <http://www.gov.am/en/> (Accessed September 29, 2011).

**100:** The agency (or agencies) has a budget sufficient to fulfill its basic mandate.

**75:**

**50:** The agency (or agencies) has limited budget, generally considered somewhat insufficient to fulfill its basic mandate.

**25:**

**0:** The agency (or agencies) has no budget or an obviously insufficient budget that hinders the agency's ability to fulfill its mandate.

83c. In practice, the law enforcement agency is protected from political interference.

100 | 75 | 50 | 25 | 0

**Comments:**

According to Gayane Mkrtchyan: "Two senior officers in Armenia's traffic police force have been arrested on embezzlement charges, but opposition politicians and analysts are skeptical about the charges, with some saying they may result from an internecine conflict within government rather than a genuine effort to stamp out corruption."

**References:**

Gayane Mkrtchyan, 2011, "Armenia: Scepticism Over Police Graft Charges," Institute for War & Peace Reporting. <http://iwpr.net/report-news/armenia-scepticism-over-police-graft-charges> (Accessed September 20, 2011).

**100:** The agency (or agencies) operates independently of the political process and has operational independence from the government. All laws can be enforced regardless of the status of suspects or the sensitivity of the investigation.

**75:**

**50:** The agency (or agencies) is typically independent, yet is sometimes influenced in its investigations or enforcement actions by negative or positive political incentives. This may include favorable or unfavorable public criticism by the government or other forms of influence. The agency (or agencies) may not be provided with some information needed to carry out its investigations.

**25:**

**0:** The investigative and enforcement work of the agency (or agencies) is commonly influenced by political actors or the government. These may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power by the government.

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## 84. Can law enforcement officials be held accountable for their actions?

79

84a. In law, there is an independent mechanism for citizens to complain about police action.

Yes | No

**Comments:**

According to the Law on Police, Article 43: "The illegal actions of the police officers may be appealed to the superiors thereof or under court order."

Citizens can also complain to the Human Rights Defender.

According to the Law on Human Rights Defender, Article 7:

"1. The Defender shall consider the complaints concerning violations by central and local government agencies or their officials of human rights and fundamental freedoms provided by the Constitution, laws, other legal acts and the international treaties of the Republic of Armenia, as well as by the principles and norms of International Law. "

#### References:

National Assembly of the Republic of Armenia, 2001, Law of the Republic of Armenia on Police, Article 43, "The Responsibility of the Policy Officer". <http://www.parliament.am/legislation.php?sel=show&ID=1271&lang=eng> (Accessed August 18, 2011).

National Assembly of the Republic of Armenia, 2003, Law of the Republic of Armenia on the Human Rights Defender, Article 7, "Complaints that are Subject to the Defender's Consideration". <http://www.parliament.am/legislation.php?sel=show&ID=1457&lang=eng> (Accessed August 18, 2011).

**Yes:** A YES score is earned if there is a formal process or mechanism by which citizens can complain about police actions. A YES score is earned if a broader mechanism such as the national ombudsman, human rights commission, or anti-corruption agency has jurisdiction over the police.

**No:** A NO score is earned if there is no such mechanism

84b. In practice, the independent law enforcement complaint reporting mechanism responds to citizen's complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

#### Comments:

The HR Defender office, according to Armen Mazmanyan, is quite professional and prompt in reacting to citizen complains.

Citizens can complain to the superior police officer (not a very good option given the overall corruption level in the police itself) or to the Human Rights Defender.

#### References:

Armen Mazmanyan, 2011, "Functioning of Judiciary in Armenia," assistant professor, programs director, Legal Resource Center, American University of Armenia. Place of interview: American University of Armenia, Yerevan, Armenia. Date of interview: September 30, 2011.

**100:** The agency/entity responds to complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

**75:**

**50:** The agency/entity responds to complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

**25:**

**0:** The agency/entity cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take three to six months to resolve. Serious abuses are not investigated with any urgency.

84c. In law, there is an agency/entity to investigate and prosecute corruption committed by law enforcement officials.

Yes | No

**Comments:**

The Human Rights Defender has the mandate to investigate corruption cases.

**References:**

National Assembly of the Republic of Armenia, 2003, Law the Republic of Armenia on the Human Rights Defender. <http://www.parliament.am/legislation.php?sel=show&ID=1457&lang=eng> (Accessed August 18, 2011).

**Yes:** A YES score is earned if there is an agency/entity specifically mandated to investigate corruption-related activity within law enforcement. This agency/entity may be internal to the police department (provided it has a degree of independence, such as an internal affairs unit) or part of a broader national mechanism such as the national ombudsman, human rights commission, or anti-corruption agency.

**No:** A NO score is earned if no such agency/entity exists.

84d. In practice, when necessary, the agency/entity independently initiates investigations into allegations of corruption by law enforcement officials.

100 | 75 | 50 | 25 | 0

**Comments:**

The Human Rights Defender office has the mandate to investigate corruption cases. According to Armen Mazmanyan, the HR Defender office is quite professional and prompt in reacting to citizen complaints, but not entirely immune from political pressure.

**References:**

Armen Mazmanyan, 2011, "Functioning of Judiciary in Armenia," assistant professor, programs director, Legal Resource Center, American University of Armenia. Place of interview: American University of Armenia, Yerevan, Armenia. Date of interview: September 30, 2011.

**100:** When irregularities are discovered, the agency/entity is aggressive in investigating government law enforcement officials or in cooperating with other investigative agencies.

**75:**

**50:** The agency/entity starts investigations, but is limited in its effectiveness or is reluctant to cooperate with other investigative agencies. The agency/entity may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency/entity does not effectively investigate or does not cooperate with other investigative agencies. The agency may start investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

84e. In law, law enforcement officials are not immune from criminal proceedings.



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Yes | No

**Comments:**

The Criminal Procedure Code envisions no immunity for the representatives of law enforcement.

**References:**

National Assembly of the Republic of Armenia, 1998, Criminal Procedure Code of the Republic of Armenia. <http://www.parliament.am/legislation.php?sel=show&ID=1450&lang=eng> (Accessed August 18, 2011).

**Yes:** A YES score is earned if law enforcement officers are fully accountable for their actions under the law and can be investigated and prosecuted for their actions.

**No:** A NO score is earned if law enforcement enjoys any special protection from criminal investigation or prosecution.

84f. In practice, law enforcement officials are not immune from criminal proceedings.

100 | 75 | 50 | 25 | 0

**Comments:**

The article above presents the story of the most recent arrests among Armenian police but also voices skepticism about whether all of those who are/were guilty were or will be brought to justice.

**References:**

Gayane Mkrtchyan, 2011, "Armenia: Skepticism Over Police Graft Charges," Institute for War & Peace Reporting. <http://iwpr.net/report-news/armenia-scepticism-over-police-graft-charges> (Accessed September 20, 2011).

**100:** Law enforcement officers are subject to criminal investigation for official misconduct. No crimes are exempt from prosecution.

**75:**

**50:** Law enforcement is generally subject to criminal investigation but exceptions may exist where criminal actions are overlooked by the police or prosecutors. Some crimes may be exempt from prosecution, such as actions taken in the line of duty.

**25:**

**0:** Law enforcement enjoys a general protection from most criminal investigation. This may be due to a formal immunity or an informal understanding that the law enforcement community protects itself.

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