

## **Annex 1 – Annual Action Programme 2012 for Armenia**

### **1. IDENTIFICATION**

<b>Title/Number</b>	<b>Support for justice reform in Armenia – Phase II</b> CRIS Number: ENPI/2012/023-600		
<b>Total cost</b>	EU Contribution: EUR 20 million		
<b>Aid method / Method of implementation</b>	Sector Policy Support Programme: - Sector budget support (centralised management); - Project mode (direct centralised management / joint management with the Council of Europe)		
<b>DAC-code</b>	15130	<b>Sector</b>	Legal and Judicial Development

### **2. RATIONALE AND COUNTRY CONTEXT**

The areas covered by the proposed programme are in line with the EU assistance priorities in the sector, as established in the National Indicative Programme (NIP) 2011-2013 - sub-priority 1.1 "democratic institutions, rule of law and reform of the judiciary". The programme also supports the implementation of the EU-Armenia European Neighbourhood Policy (ENP) Action Plan, particularly its Priority area 1 "strengthening of democratic structures, of the rule of law, including reform of the judiciary and combat of fraud and corruption".

#### **2.1. Country context and rationale for SPSP**

##### **2.1.1. *Economic and social situation and poverty analysis***

The global economic crisis seriously threatened the economic growth and poverty reduction achieved in Armenia over recent years. The crisis had a serious impact on poverty incidence, which rose to 35.8% in 2010 as compared to 27.9% observed in 2008. Moreover, the share of the extremely poor in 2010 was 3.6% as compared to 1.6% in 2008<sup>1</sup>. According to the July 2011 IMF Country Report, GDP per capita rose by 82% between 2006 and 2008, but fell by 26% in 2009. In the years of economic growth the registered unemployment experienced similar trends, decreasing from 9.6% in 2004 to 6.3% in 2008. In 2009 and 2010, however, the registered unemployment rate had risen to 7%.

##### **2.1.2. *National development policy***

The *Sustainable Development Programme* (SDP) sets out the priorities for sustainable development in Armenia for the period 2008-2021, with strategies for modernising the country's administration system and promoting good governance, among other things. A progress report demonstrates political commitment to undertake the strategic steps envisaged in the Programme, with some progress in implementation. Due to the negative social and economic effects of the 2008 global crisis, the document is currently being revised by the relevant authorities, with support by the United Nations Development Programme (UNDP).

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<sup>1</sup> Source: National Statistics Service ([www.armstat.am](http://www.armstat.am))

Armenia has lately demonstrated a serious reform effort related to the fundamental values of human rights, democracy and the rule of law, and the fight against corruption and fraud, though gaps remain in the implementation of reforms. The parliamentary elections in May 2012 will test the government commitment to fair and democratic elections in line with OSCE/Council of Europe standards. Media independence and pluralism are also on the reform agenda.

The "*Strategy on Accelerating the reforms in the Republic of Armenia within the framework of the Eastern Partnership*", adopted by the President of Armenia in 2011, stresses the importance of enhancing the democratic structures and ensuring the rule of law as well as implementing reforms in the field of Justice, Liberty and Security (JLS). Furthermore, it emphasises the respect for human rights and fundamental freedoms. Same issues are underlined in the "*White Paper on Republic of Armenia Reform Agenda within the EU Integration Context*" from the Armenian Government, translating the Strategy in more concrete actions.

In addition, under the *Anti-corruption Strategy of Armenia* adopted in 2009, and its Action Plan 2009 - 2012, main recommendations of the OECD and the GRECO (Group of states against corruption) of the Council of Europe have been followed up. The Government is planning to renew the Strategy for the upcoming period.

## **2.2. Sector context: policies and challenges**

1) **Sector context:** Since the changes in the Constitution in 2005, the intention of the Government of Armenia has been to ensure the independence of justice and to restore the trust of the population towards courts and judges. It still remains a challenge today as surveys show that 70 to 80%<sup>2</sup> of the population do not trust the justice system. In this context, it must be stressed that the first comprehensive reform strategy is recent ("*Strategic Action Programme for Judicial Reforms 2009-2011*") whereas previous strategies did not have the necessary holistic approach.

Currently, the main sector strategy is the *Strategy of Judicial and Legal Reforms for 2012-2016* and its *Action Plan*, developed with the EU support through an inclusive approach involving all relevant stakeholders (Ministry of Justice, Judiciary, Prosecution, Police, Advocates, civil society and donors) - expected to be approved by the President in 2012. The Strategy, linked to the aims of the SDP, is articulated around the following 9 pillars: justice sector coordination, penitentiary reform, criminal justice, civil justice, administrative justice, functional judiciary, prosecution, advocacy, and services to citizens.

2) **Sector budget and MTEF:** Armenia has used the Medium-Term Expenditure Framework (MTEF) since 2003. Despite the fact that the severe economic crisis of 2009 led to the temporary suspension of the MTEF, it has been reintroduced through the government approval of the MTEF for 2011-2013. Sector budgeting is currently linked to institutions, but there are ongoing reforms to introduce programme budgeting in the justice sector.

3) **Coordination and Performance monitoring:** Working Group in charge of coordination and performance monitoring of judicial and legal reforms has been created by the President's decree in 2008 and is composed of the highest rank officials. Such coordination is complemented through steering committees set up for the EU budget support programme and Joint Project "Access to Justice" with the Council of Europe. Under the new Justice Strategy and Action Plan for 2012-2016, an improved, and more formalised,

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<sup>2</sup> Source: declaration of Minister of Justice Tovmasyan at a Press Conference in Yerevan on 25/01/2012

coordination and monitoring mechanism has been proposed, with a policy making coordination council, sub-sector working groups and supporting staff.

**4) Macroeconomic framework:** The macroeconomic fundamentals of the country remain positive and the IMF programme is on track. The projection of 4.6% and 4.3% GDP growth in 2011 and 2012 respectively are still in force. In 2011, the economy performed well thanks to the recovery of the agricultural sector and the dynamism of the industry and services sectors. However, downside risks have increased considerably due to external factors such as the indirect consequences of the European sovereign debt crisis through the knock-on effects to Russia and the main trade partners. The fiscal balance has continued to improve, with the overall deficit expected to come down to below 4% in 2011 from 4.6% percent in 2010. In order to ensure debt sustainability, consolidation is expected to continue in 2012. Inflation at the end of 2011 is estimated at 6.7%, 4% at the end of 2012, declining from 8.5% of end 2010 thanks mainly to an adequate fiscal consolidation path and the stabilisation of international food and fuel prices. Also, domestic agricultural production has gone back to lower levels of price. The Central Bank continues to show a commitment to a flexible exchange rate and the inflation targeting regime, engaging in limited foreign exchange interventions to smooth volatility. The third IMF review of the Extended Fund Facility (EFF)/Extended Credit Facility (ECF) Programme was finalised in mid-December 2011 and triggered a new IMF disbursement of USD 56.1 million.

**5) Public Finance Management:** The first and most recent Public Expenditure and Financial Accountability (PEFA) evaluation was carried out in 2008 and attested progresses in many areas. The Government is planning to hold a second evaluation in 2012 - 2013. In terms of revenue, inflows continue to recover from the economic downturn in 2009. The authorities project that revenue will rise by almost 7% in 2012 through amendments to the tax legislation aimed at targeting the most affluent. A new systemic *Strategy for Reforming the Public Finance Management System* was adopted by Government decree on 28 October 2010. The new proposed reforms aim to complete the work on the basic systems while gradually transitioning from centralised administration to decentralised management. External Audit Reforms will be covered by the "Strategic Development Plan" and its Action Plan that were adopted by the Chamber of Control in summer 2011. As concerns budget transparency and oversight, Armenia scored high marks in the 2008 PEFA. Budget documents are publicly and regularly available through various means (press, website). The Chamber of Control regularly receives the Execution Report within the stipulated time and issues an Opinion - both are widely covered by the press. The Budget is actively reviewed by the Parliament as assessed by the PEFA 2008 (A rating). Web portal [www.e-gov.am](http://www.e-gov.am) has a page on interactive budget.

### **2.3. Eligibility for budget support**

On the basis of the analysis in 2.2, Armenia continues to meet all three eligibility criteria for budget support: Sector policy, macroeconomic stability and PFM reform. As concerns the budget transparency / accountability, the 2012 Budget law was published on 23 December 2011, after the adoption by the National Assembly and the President.

### **2.4. Lessons learnt**

In line with the aid effectiveness agenda, including the general consensus to channel assistance mainly via the beneficiary country systems and the good assessment of public finance management (PFM) systems in Armenia, the proposed delivery mechanism is budget support. Budget support modality allows better alignment with the priorities of the Armenian government, and enhances the ownership and effective implementation of the national policies through an enhanced policy dialogue with the involvement of all stakeholders.

The experience gained through the current justice budget support programme indicates that this instrument is functioning well in Armenia, helping to advance the reforms as demonstrated by high compliance with conditions set for disbursements. Among the main achievements are: increased transparency in appointing judges, including through relevant changes in the Judicial Code; information terminals installed in Courts notably to follow timetable of court cases; improved statistical indicators of the Courts; and better quality of services to the public by the construction of new Court buildings. The experience with the current programme also shows the importance of relevant sector coordination through a properly designed mechanism – such coordination is foreseen under the new Justice Strategy for 2012-2016.

## **2.5. Complementary actions**

The EU is currently involved in two major programmes in the justice sector with a significant impact on reforms: (1) A budget support programme for the period 2009-2012; (2) A joint project "Access to Justice" with the Council of Europe running until the end of 2012. Other ongoing EU projects involve Civil Society Organisations in juvenile justice, the independence of judicial authorities and criminal justice through the EIDHR instrument.

As concerns support by other donors, a project by the World Bank has provided extensive aid in judicial reform (ending in 2012), also supporting the rehabilitation of courthouses in Yerevan and regions, as well as consultancy on judicial governance (including IT management systems), legal information, raising public awareness in the field of reforms, bailiffs and alternative dispute resolution (ADR). The German Agency for International Cooperation (GIZ) is providing assistance in the field of administrative justice, penitentiary reforms and criminal justice, Civil Law and Civil Procedure Law and functional judiciary (legislation on upcoming Criminal Procedure Code and Code of Administrative Offenses, training of judges and court personnel). In addition, the German Foundation for International Legal Cooperation (IRZ), with support of the Foreign Office, is carrying out activities in Armenia with a focus on notary law, penitentiary law and training of judiciary personnel. The Council of Europe is currently concentrating on fostering human rights by supporting penitentiary reforms. The OSCE has projects on Court Monitoring in Criminal Justice, and has supported capacity building of judges, prosecutors, and advocates. USAID focuses on the issues of judicial independence with ongoing projects with the Association of Judges, as well as on supporting the Chamber of Advocates.

## **2.6. Donor coordination**

Currently donor coordination takes place through meetings, organised either by one of the donors or by the Ministry of Justice, where representatives of the donors share information on their ongoing projects and plans for the future. Such coordination has helped to prevent overlapping of aid or its disproportional distribution in the sector, but it is set to be replaced by permanent coordination led by the Ministry of Justice with the participation of main national stakeholders – as proposed in the new Justice Strategy for 2012-2016.

# **3. DESCRIPTION**

## **3.1. Objectives**

The overall objective of this programme is to contribute to the development of a more independent, transparent, accountable, accessible and efficient judicial system, in line with the "Strategy on Legal and Judicial Reforms 2012-2016". To maximise its impact, it should

follow up and build on the results of the current support programmes (Budget Support and Joint project with the Council of Europe).

The specific objectives are to:

- Introduce anti-corruption measures for a more independent, transparent and accountable justice sector, specifically targeting judges, in line with the GRECO recommendations;
- Contribute to an efficient and accessible justice sector by improving cooperation between all the stakeholders, setting up proper schools for advocates, judges and prosecutors and by increasing the quality of the judicial process in the first instance courts;
- Revise the Criminal Code and promote alternative punishment systems to decrease the level of incarcerated persons in line with international standards;
- Increase the quality of services to the public (including businesses) in the areas of arbitration, notarisation and civil registration.

### **3.2. Expected results and main activities**

The following results are expected from the programme:

#### Anti-corruption in the justice sector:

- Mechanisms to nominate, evaluate, promote and discipline judges are improved, including amendments to the Judicial code, to move towards a more professional, motivated, responsible, accountable, transparent and corruption-free judicial corps;
- Transparency and role of the Ethics and Disciplinary Commission is increased;
- Accountability of the justice sector to Civil Society is increased through the publication of relevant statistical indicators.

#### Efficient and accessible justice:

- Cooperation among the main actors of the judicial process is improved;
- Speed and quality of the judicial process is increased in the first instance cases;
- The Justice Academy and the School of Advocates are properly functioning, contributing to better trained judges, prosecutors and advocates;
- Free legal aid mechanisms are enhanced and quality of legal aid is improved.

#### Revision of criminal code and alternative punishment systems:

- Relevant Criminal law is amended to provide for a revision of the grounds and scope of alternative sanctions;
- A new probation service is set up and functioning under the supervision of the Ministry of Justice;

### Quality of services to the public:

- Simplification of procedures in relation to notarisation in order to introduce the principle of "one-stop-shop";
- Simplification of civil registration procedures by implementing an E-Registry process;
- A model of Alternative Dispute Resolution is developed to contribute to a better business environment.

In order to enhance the efficiency of this programme, technical assistance will be used:

- to continue the partnership with the Council of Europe (CoE) that will support specific activities foreseen under this programme. Through the current EU-CoE joint project "Access to Justice", the CoE has successfully set up the School of Advocates, and is working on setting up the future Justice Academy. Further support is required to these new structures that will train the future main actors of the justice system. The CoE acquired the relevant experience in the field with all the justice actors in Armenia to efficiently build on the results of the current joint project. They also have a permanent office in Yerevan with which the Government of Armenia has an ongoing strong political dialogue and which can help leveraging the conditions of this programme. In addition it is intended that the CoE brings its internal expertise to implement the GRECO (Group of states against corruption) recommendations on anti-corruption, specifically in the justice sector. GRECO was established by the CoE and is therefore the best interlocutor to support an effective implementation of these recommendations. CoE has also an extensive experience in alternative punishment systems (project included in the Armenia-CoE Action Plan for 2012) which this programme could benefit from;
- to build capacity of relevant civil society organisations in evaluating and monitoring the budget support conditions;
- to support the Ministry of Justice and other stakeholders with the practical implementation of the programme;
- to assist the contracting authority in assessing the fulfilment of conditions (review missions), to evaluate the impact of the programme as well as to conduct financial and systems audits.

### **3.3. Risks and assumptions**

The main **assumptions** are the following:

- Elections in 2012 (parliamentary) and 2013 (presidential) will not change the commitment to reforms in the programme areas;
- The new Justice Strategy and the Action Plan will be adopted in 2012;
- The state/judicial statistical services provide appropriate data on time.

The main risks are:

<b>Risks</b>	<b>Level<sup>3</sup></b>	<b>Risk Mitigation Measures</b>
Exacerbation of the impact on Armenia of the global financial and economic crisis.	M	Successful implementation of the IMF Stand-by Agreement; Prudence in fiscal and monetary policy.
Under-financing of programmes and activities related to justice reform agenda.	M	Proper planning and costing techniques used to ensure fiscal realism.
Delays in the disbursement of budget support instalments.	L	Conditions of the programme are formulated in a realistic, measurable and achievable manner; Reviews are performed within the foreseen time schedule.
Delays of envisaged complementary technical assistance.	L	Timely programming of TA and appropriately designed capacity building activities.
Corruption and resistance to increasing public transparency.	L	Policy dialogue with the Government; EU assistance directly supporting anti-corruption measures; Assessment as part of eligibility for each budget support disbursement.

### **3.4. Stakeholders**

The main stakeholder of the programme is the Ministry of Justice, which is in charge of developing policy for the whole justice sector. Other stakeholders are Council of Justice, Council of Court Chairmen (executive body of judicial self-governance), Judicial Department, Judicial School, Prosecutor's Office, Chamber of Advocates, Police and relevant Civil Society Organisations.

Due to budgetary implications of the project, the Ministry of Finance and particularly the Treasury are also key interlocutors. The Strategy of Judicial and Legal Reforms 2012-2016 envisages establishment of coordination mechanism for the reforms in the sector, which includes organisation of several working groups in charge of detailed planning and budgeting of specific activities, as well as analysis of relevant statistical data and continuous monitoring of the progress of the reforms. When established, these bodies will become main partners of the programme, ensuring proper performance monitoring.

### **3.5. Crosscutting Issues**

The programme is expected to enhance good governance, democracy & human rights and gender equality: Further strengthening of the independence of judges as well as further automation of processes and services (courts, prosecution, registries and notaries) are expected to highly contribute to good governance. The justice reforms supported by the programme will also have a significant impact for fundamental human rights, such as right to a fair trial. Transparent nomination and career development regulations for judges should contribute to gender equality.

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<sup>3</sup> Risks are broadly divided in low (L), medium (M) and high (H).

## **4. IMPLEMENTATION ISSUES**

### **4.1. Method of implementation**

- Direct centralised management for the budget support and specific parts of the complementary actions (Technical Assistance for practical implementation of the programme, review missions, audit and visibility), which will be implemented by way of service and grant contracts.

- Joint management through the signature of an agreement with an international organisation: with Council of Europe in accordance with Article 53d of the Financial Regulation. Council of Europe complies with the criteria provided for in the applicable Financial Regulation and is covered by the Framework Administrative Agreement signed on 13/08/2004. The contractual model that will be used will be the Standard Contribution Agreement. The CoE will contribute to the project by funding part of the staff allocated to the planned activities.

The change of management mode constitutes a substantial change except where the Commission "re-centralises" or reduces the level of tasks previously delegated to the beneficiary country, international organisation or delegatee body under, respectively, decentralised, joint or indirect centralised management.

### **4.2. Procurement and grant award procedures**

#### **1) Contracts**

All contracts implementing the action must be awarded and implemented in accordance with the procedures and standard documents laid down and published by the Commission for the implementation of external operations, in force at the time of the launch of the procedure in question.

Participation in the award of contracts for the present action shall be open to all natural and legal persons covered by the ENPI Regulation. Further extensions of this participation to other natural or legal persons by the concerned authorising officer shall be subject to the conditions provided for in Article 21(7) of the ENPI Regulation.

#### **2) Specific rules for grants**

The essential selection and award criteria for the award of grants are laid down in the Practical Guide to contract procedures for EU external actions. They are established in accordance with the principles set out in Title VI 'Grants' of the Financial Regulation applicable to the general budget of the European Communities. When derogations to these principles are applied, they shall be justified, in particular in the following cases:

– Financing in full (derogation to the principle of co-financing): the maximum possible rate of co-financing for grants is 80% of total eligible cost. Full financing may only be applied in the cases provided for in Article 253 of the Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of the Financial Regulation applicable to the general budget.

– Derogation to the principle of non-retroactivity: a grant may be awarded for an action which has already begun only if the applicant can demonstrate the need to start the action before the grant is awarded, in accordance with Article 112 of the Financial Regulation applicable to the general budget.



### 3) Specific rules for Joint Management

All contracts implementing the action are awarded and implemented in accordance with the procedures and standard documents laid down and published by the relevant International Organisation.

#### 4.3. Budget and calendar

The budget for this programme is EUR 20 million, indicatively broken down as follows:

<b>Components</b>	<b>Indicative EU contribution (EUR)</b>
<b>Budget Support</b>	<b>17 million</b>
<b>Complementary actions, including:</b>	<b>3 million</b>
<i>Technical assistance to support the practical implementation of the programme</i>	<i>1 million</i>
<i>"Access to Justice" joint project with the Council of Europe on anti-corruption, penitentiary, school of advocates &amp; justice academy</i>	<i>1.5 million</i>
<i>Technical assistance to review conditions for budget support disbursements</i>	<i>0.5 million</i>

These funds may also be used for audit and evaluation (ex-post), and for visibility activities.

Indicative disbursement calendar will be as follows (for budget support):

<b>Date</b>	1st quarter 2014	1 <sup>st</sup> Quarter 2015	1 <sup>st</sup> Quarter 2016
<b>Amount</b>	EUR 6 million (variable tranche)	EUR 6 million (variable tranche)	EUR 5 million (variable tranche)

The indicative implementation period is 48 months from the entry into force of the Financing Agreement. The procurement procedures for the complementary TA service contracts as well as a Contribution Agreement with the Council of Europe (under joint management) are expected to be launched within 12 months and contracts concluded within 24 months following the entry into force of the Financing Agreement.

#### 4.4. Performance monitoring and criteria for disbursement

The monitoring of the programme will be carried out by a Steering Committee chaired by the Minister of Justice. The members will include representatives of all relevant ministries and key stakeholders (Minister of Economy, Minister of Finance, General prosecutor, Head of Judicial department, Head of Chamber of Advocates etc.) and of representatives of the European Commission as well as the civil society.

The performance of the programme will be assessed against conditions to be defined in the Financing Agreement for the budget support instalments. General conditions applicable for all instalments will require the implementation of the sector strategy, macroeconomic and fiscal stability and progress in public financial management. Review missions will be mobilised to advise the European Commission on the progress in fulfilling the agreed conditions to determine the budget support disbursements under the programme.

Specific Conditions are expected to focus on the following areas:

- Effective implementation of anti-corruption measures
- Improved access to justice through advocacy, legal aid and Public Defenders
- Better use of alternative punishment systems to decrease the level of incarcerated persons
- Higher quality services to the public (including businesses) through simplified procedures

The disbursements will depend on the degree of compliance with the conditions stipulated in the Financing Agreement.

#### **4.5. Evaluation and audit**

The programme may be subject to a final, ex post evaluation in order to assess the relevance, efficiency, effectiveness, impact and sustainability of the achievements of the programme. Independent evaluators may be contracted by the European Commission in accordance with its internal procedures. In case of joint management, and where applicable, the provisions included in the relevant framework agreement(s) signed with the international organisation(s) will apply.

#### **4.6. Communication and visibility**

Throughout the implementation of the Programme, the best possible visibility will be sought through actions to be organised in cooperation with all relevant stakeholders, in line with the "Communication and Visibility Manual for EU External Actions". In case of joint management, and where applicable, the provisions included in the relevant framework agreement(s) signed with the international organisation(s) will apply.