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Baseline Measurement Report:

# The **Principles** of Public **Administration**

**ARMENIA**

March  
2019

# **Baseline Measurement Report:**

## **The Principles of Public Administration**

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## **LIST OF ABBREVIATIONS AND ACRONYMS**

AC	Audit Chamber
AIS	automated information system
AMD	Armenian Dram
APSAS	Armenia Public Sector Accounting Standards
ARMEPS	e-procurement system
CBA	Central Bank of Armenia
CEHRO	Commission on Ethics of High-Ranking Official
CEPA	Comprehensive and Enhanced Partnership Agreement
CIO	Chief Information Officer
CoE	Council of Europe
CoG	Centre of Government
CoM	Council of Ministers
COSO	Committee of Sponsoring Organizations
CPC	Corruption Prevention Commission
CSC	Civil Service Council
CSI	Centre for Strategic Initiatives Foundation
CSL	Civil Service Law
CSO	Civil Service Office
DAF	Digital Armenia Foundation
DPM	Deputy Prime Minister
DTAA	Digital Transformation Agenda of Armenia
EKENG	E-governance Infrastructure Implementation Unit
EU	European Union
FMC	Financial Management and Control
GAP	Government Activity Programme
GDP	gross domestic product
GFMIS	government financial management information system
GFSM	Government Finance Statistics Manual
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH
GPA	Government Procurement Agreement
HR	human resources
HRM	human resource management
HRMIS	human resource management information system
IA	internal audit

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List of Abbreviations and Acronyms

IMF	International Monetary Fund
INTOSAI	International Organisations of Supreme Audit Institutions
ISSAIs	International Standards of Supreme Audit Institutions
IT	information technology
LALR	Law on Administrative Legal Relations
LCPC	Law on the Corruption Prevention Commission
LGSA	Law on the Government Structure and Activity
LFAAA	Law on Fundamentals of Administration and Administrative Action
LFAAP	Law on the Fundamentals of Administration and Administrative Procedure
LFI	Law on Freedom of Information
LPAB	Law on Public Administration Bodies
LRSOPS	Law on the Remuneration of State Officials and Public Servants
LWP	Law on Whistle-Blowers Protection
MoF	Ministry of Finance
MoJ	Ministry of Justice
MoLSA	Ministry of Labour and Social Affairs
MTBF	Medium-Term Budgetary Framework
MTCIT	Ministry of Transport, Communication and Information Technologies
MTEF	Medium-Term Expenditure Framework
NCLR	National Centre for Legislative Regulation
OPM	Office of the Prime Minister
PAR	public administration reform
PED	Programmes Expertise Department
PEFA	Public Expenditure and Financial Accountability
PFM	public financial management
PFMSRS	Public Financial Management System Reform Revised Strategy
PIFC	Public Internal Financial Control
PM	Prime Minister
PPL	Public Procurement Law
PPPs	public-private partnerships
PSL	Public Service Law
RIA	Regulatory Impact Assessment
RoP	rules of procedure
SAI	Supreme Audit Institution
SAI-PMF	SAI Performance Measurement Framework
SDP	strategic development plan
SJC	Supreme Judicial Council

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List of Abbreviations and Acronyms

SMEs	small and medium-sized enterprises
SNA	System of National Accounts
SOE	state-owned-enterprises
TNA	training needs analysis
TSA	Treasury Single Account
UN	United Nations
WCAG	Web Content Accessibility Guidelines

## INTRODUCTION

This SIGMA Baseline Measurement Report uses *The Principles of Public Administration: A Framework for ENP Countries*<sup>1</sup> to analyse six key horizontal areas of public administration in the Republic of Armenia: the strategic framework of public administration reform; policy development and co-ordination; public service and human resource management; accountability; service delivery; and public financial management, including public procurement and external audit.

SIGMA, in close co-operation with the European Commission (EC), developed *The Principles of Public Administration: A Framework for ENP Countries* in 2016 and the *Methodological Framework*<sup>2</sup> in 2018. These Principles aim to assist national authorities, EC services and other donors in developing a shared understanding of what public administration reform (PAR) entails and what countries can aim for with their administrative reforms. The Methodological Framework features a complete set of indicators, focusing on the preconditions for a well-functioning public administration (good laws, policies, structures and procedures) and on how the administration performs in practice, including the implementation of reforms and subsequent outcomes.

An accountable and effective public administration at both the central and local levels is key to democratic governance, and encourages inclusive economic development. PAR helps to strengthen democratic and independent institutions, develop local and regional authorities, depoliticise the civil service, develop e-government and increase institutional transparency and accountability. An effective public administration has advantages and benefits both for individuals and the state. First, it enables governments to achieve their policy objectives and ensures proper implementation of political decisions and legal rules, thus promoting political efficiency and stability; by contrast, poor public administration causes delays, inefficiency, uncertainty and corruption. Second, the importance of good public administration in the development of the economy is internationally acknowledged - with appropriate legislation and an independent judiciary, an effective public administration provides a solid foundation for the operation of the market. Maladministration, in the form of administrative deficiencies and lengthy, unnecessarily complex administrative processes, obstructs the economic initiatives of potential domestic and foreign investors, and has a negative impact on employment and political stability.

The protests and subsequent peaceful change of Government that took place in Armenia in the first half of 2018 have laid a foundation for public administration. This Baseline Measurement Report can help the Armenian authorities to establish priorities and plan sequenced reforms to further strengthen democratic institutions and increase the effectiveness of the administration.

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<sup>1</sup> OECD (2016), *The Principles of Public Administration: A Framework for ENP Countries*, OECD, Paris, <http://www.sigmaweb.org/publications/Principles-ENP-Eng.pdf>.

<sup>2</sup> OECD (2018), *Methodological Framework for the Principles of Public Administration: ENP Countries*, OECD, Paris, <http://www.sigmaweb.org/publications/Methodological-Framework-for-the-Principles-of-Public-Administration-ENP-Countries-May-2018.pdf>.

## OVERVIEW

In autumn 2017, the Government of Armenia and the EC requested that SIGMA carry out a full assessment of the public administration in Armenia based on *The Principles of Public Administration: A Framework for ENP Countries*. The Methodological Framework for ENP Countries was presented to the Armenian administration in December 2017 and data collection started in spring 2018, supported by an EU-funded Technical Assistance project *Development and Strategic Studies*. In September, SIGMA conducted a fact-finding mission to Armenia and at the end of November, a first draft of the Baseline Measurement Report was delivered to the administration for review and fact-checking.

SIGMA draws on multiple sources of evidence for its assessments and wishes to thank the Government for its collaboration in providing the necessary administrative data and documentation, and facilitating access to hundreds of interviewees from the administration, civil society and private sector, as well as data from surveys of the general population, businesses and contracting authorities<sup>3</sup>.

The period 2017-2018 has been one of change and transformation in the organisation and functioning of the public administration in Armenia. In November 2017, a new Comprehensive and Enhanced Partnership Agreement (CEPA) between the EU and Armenia was signed, which provided a framework for strengthening and deepening co-operation between the EU and Armenia. PAR, including development of an accountable, efficient, transparent and professional civil service, has been identified as one of the key areas of domestic reforms. In April 2018, a Constitutional reform entered into force, transforming the political system from semi-presidential to fully parliamentary. The Constitutional reform required changes in many major laws regulating the organisation and functioning of key state institutions. In May, following massive peaceful street demonstrations, the new Prime Minister, Mr. Nikol Pashinyan, was appointed and a temporary Government was formed. The new Government started implementing reforms to fight corruption and improve the business environment. Parliamentary elections took place in December 2018.

This Baseline Measurement Report covers the current state of play (as of December 2018) and main developments between January 2017 and December 2018. As the Report demonstrates, in several areas new regulations have been introduced too recently to be able to objectively observe and evaluate results. The full impact of the current reforms has yet to be understood, and more changes are expected.

The **strategic framework of public administration reform** is incomplete. The quality of the strategies related to PAR is weak - they often lack clarity in setting reform objectives with corresponding outcome-level indicators and targets, and do not sufficiently provide costings nor monitoring and reporting arrangements. As a result of shortcomings in PAR monitoring, it is not possible to assess progress against the strategic objectives nor on implementation of the strategies. Responsibility for PAR is assigned at the political but not organisational level.

The legal framework for **policy development and co-ordination** is in place, but is not comprehensively supported with guidance from the centre of government. The quality of strategic planning and monitoring is poor and lacks well-defined policy objectives, outcome-level indicators or detailed cost estimates. While the transparency of the Government's decision-making is commendable, internal enforcement of the requirements for procedural policy development and consultation is not consistent. The quality of regulatory impact assessment is weak, while public consultations are centred on draft laws and are not fully integrated within policy making. As measured by a SIGMA-commissioned survey, the perception of businesses regarding the clarity and stability of government policy making is not wholly favourable. Both primary and secondary legislation are available online and free of charge.

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<sup>3</sup> Based on SIGMA's standard questionnaires, SIGMA commissioned the Institute for Polling and Marketing (IPM) to conduct surveys on representatives from the general population, businesses and contracting authorities. 1 000 citizens, 300 businesses and 150 contracting authorities were surveyed in October 2018, based on a random sampling approach and covering all regions.

The new Law on the **Civil Service** has significantly expanded the scope of the civil service but certain special groups of public servants and top-level positions are still excluded. Most of secondary legislation was adopted by the end of 2018. The wide use of discretionary bonuses compromises the fairness of remuneration. Although the institutional and legislative framework adopted in 2017 and 2018 to promote integrity and prevent corruption covers the whole public service and provides for adequate institutions and tools, implementation, including creation of a new Commission for the Prevention of Corruption, has not begun.

In terms of **accountability**, the structure of the state administration does not have a consistent and rational design. The serious imbalances between agencies' autonomy and ministerial guidance are an obstacle in executing Government policies. Private law foundations are widely used as delivery vehicles in priority policy areas such as digital services and tourism but there is minimal supervision and control of their activities, and insufficient transparency. The legal framework and institutional set-up for administrative justice is adequate. However, the efficiency of the administrative courts is a key concern, as indicated by a significant backlog of cases.

While the Government's policy framework for **service delivery** in general has not yet been defined, the policy framework for digital service delivery is laid out in the Strategy Programme on Electronic Governance (e-Gov Strategy). The Government has decided to abolish the Digital Armenia Foundation, but it has not yet been decided who will take over its responsibilities. Although there are promising examples of digitally available services, overall service delivery for citizens and businesses has yet to be improved. Tools for user engagement are only infrequently applied and monitoring of service delivery performance is not in place.

The legal and operational framework for implementing **public financial management** (PFM) is established. The public finance sector is comparatively small and fluctuates at around 26% of gross domestic product. The Medium-Term Expenditure Framework for 2019-2021 provides for a general Government deficit of 2.7% in 2018, and 2.3% in both 2019 and 2020. A Medium-Term Budgetary Framework has been developed for a three-year period but it is based only on central government data and is not entirely credible in the medium term. A specific legal Financial Management and Control (FMC) framework does not exist. The legal framework for internal audit (IA) is in place and operational. However, the IA profession in the public sector is still at a developmental stage.

Public procurement is currently regulated by the Public Procurement Law (PPL) adopted in December 2016 and several other pieces of secondary legislation. The PPL broadly corresponds to international practice, with the exception of the review system. A new procurement review body was established in 2017 but abolished in March 2018 and the "review persons" are now members of the Ministry of Finance. This is in clear and manifest contradiction of the requirement for independence set out in the PPL, the CEPA and the Government Procurement Agreement of the World Trade Organization. In practice, the objectives of economy, efficiency and transparency in public procurement are called into question by the weakness of the local supply market, the lack of procurement skills in many contracting authorities and concerns over the integrity of procurement processes.

For external audit, the Supreme Audit Institution, the Audit Chamber (AC), is anchored in the Constitution. The 2018 Law on the Public Audit Chamber is an improvement on the 2006 Law on the Chamber of Control, but it does not satisfactorily define the AC's independence, mandate and access to information. The audit activities of the AC do not yet comply with international standards. The core of the AC audit work is still a form of compliance audit, with a focus on defining irregularities. Guidance has been developed for financial and compliance audit, but staff training on the new audit approaches, and the development of quality control and assurance systems are not yet satisfactory.

The findings of this assessment are intended to help the Government of Armenia to plan and implement further reforms in key areas of PAR. Continued strong political support and co-ordination, as well as additional efforts and resources, will be needed to generate and sustain the desired results.

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## Strategic Framework of Public Administration Reform

## STRATEGIC FRAMEWORK OF PUBLIC ADMINISTRATION REFORM

### 1. STATE OF PLAY AND MAIN DEVELOPMENTS: JANUARY 2017 – DECEMBER 2018

#### 1.1. State of play

The strategic framework of public administration reform (PAR) is incomplete, since of the five substance areas defined in the *Principles of Public Administration*<sup>4</sup>, the area of policy development and co-ordination is not covered by a strategic document nor addressed as a priority in the Government's key planning documents<sup>5</sup>.

The quality of the strategies related to PAR<sup>6</sup> is weak. The strategies often lack clarity in setting reform objectives with corresponding outcome-level indicators and targets, and they are deficient in their costings, as well as in the definition of their monitoring and reporting arrangements. With the exception of the Anti-corruption Strategy, there is no evidence of any consultation in the development of the strategies.

As a result of shortcomings in the functioning of PAR monitoring, it is not possible to assess the achievement of the strategic objectives and the implementation of the strategies. When reports are developed, they are not always available to the public.

Responsibility for PAR is assigned at the political level, but not at the organisational level for either PAR nor for all PAR areas, or comprehensively for the implementation of each reform activity. The PAR Commission<sup>7</sup> is the highest-level co-ordination forum established for PAR. Separate co-ordination forums have been established and are functioning only for the strategies covering public financial management (PFM), anti-corruption and the civil service areas. Only the Anti-corruption Council includes non-state actors as participants for the co-ordination of PAR.

#### 1.2. Main developments

When the new Government came to power in the spring of 2018, the overall responsibility for PAR was assigned to the First Deputy Prime Minister (DPM)<sup>8</sup>. As a consequence of government restructuring and the abolition of the Civil Service Council, which had been responsible for the implementation of civil service reforms, the task was transferred to the newly established Civil Service Office<sup>9</sup> (CSO) of the Office of the Prime Minister (OPM). The implementation of the Electronic Governance Strategy has been left

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<sup>4</sup> OECD (2016), *The Principles of Public Administration: A Framework for ENP Countries*, OECD, Paris, <http://sigmaweb.org/publications/Principles%20-ENP-Eng.pdf>.

<sup>5</sup> Armenia Development Strategy for 2014-2025, Government of Armenia Protocol Decree No. 442, 27 March 2014; Decision of the Government of the Republic of Armenia No. 646-A of 19 June 2017 on the Programme of the Government of the Republic of Armenia 2017-2022; Government Programme of the Republic of Armenia 2018, Government of Armenia Protocol Decree No. 581, 1 June 2018.

<sup>6</sup> Strategy Program on Electronic Governance, Government of Armenia Protocol Decree No. 14, 10 April 2014; Civil Service Reform Strategy of the Republic of Armenia, Government of Armenia Protocol Decree No. 57, 29 December 2015; The Public Financial Management System Reform Revised Strategy (PFMSRS) and Action Plan 2016-2020, Government of Armenia Protocol Decree No. 6, 18 February 2016; Anti-corruption Strategy of the Republic of Armenia and its 2015-2018 Action Plan, Decision of the Government of the Republic of Armenia No. 1141-N, 25 September 2015.

<sup>7</sup> Prime Minister's Decision No. 544 on Priority Actions of the Republic of Armenia Public Administration Reform, 3 September 1999, and Prime Minister's Decision No. 624 on Approving the Statute of the Republic of Armenia Public Administration Reform Commission, 7 October 1999.

<sup>8</sup> Annex to Decision No. 565-L of the Prime Minister of the Republic of Armenia of 25 May 2018 on the Spheres of Activity of the Government of the Republic of Armenia Under the Co-ordination of the Deputy Prime Ministers of the Republic of Armenia.

<sup>9</sup> Decision of the Prime Minister of the Republic of Armenia No. 973-L of 17 July 2018 on the Statute of the Civil Service Office of the Office of the Prime Minister of the Republic of Armenia.

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without an operational level co-ordinator given the ongoing liquidation<sup>10</sup> of the Digital Armenia Foundation (DAF), which had been responsible for it.

The first PAR-related implementation report for the area of PFM, covering progress in 2017, has been prepared.

## 2. ANALYSIS

This analysis covers three Principles for the strategic framework of public administration reform area, grouped under one key requirement. It includes a summary analysis of the indicator(s) used to assess against each Principle, including sub-indicators<sup>11</sup>, and an assessment of the state of play for each Principle. For each key requirement, short- and medium-term recommendations are presented.

**Key requirement: The leadership of public administration reform and accountability for its implementation is established, and the strategic framework provides the basis for implementing prioritised and sequenced reform activities aligned with the government's financial circumstances.**

The values of the indicators assessing Armenia's performance under this key requirement are displayed below.

Indicators	0	1	2	3	4	5
Quality of the strategic framework of public administration reform, effectiveness of implementation and comprehensiveness of the monitoring system		◆				
Financial sustainability of PAR	◆					
Accountability and co-ordination in PAR			◆			

Legend: ◆ Indicator value

<sup>10</sup> As a result of the decision of the Board of Trustees of DAF on 20 August 2018, the Yerevan General Court accepted the case on 2 October 2018 and started the legal proceedings for terminating the DAF.

<sup>11</sup> OECD (2018), *Methodological Framework for the Principles of Public Administration: ENP Countries*, OECD, Paris, <http://www.sigmaweb.org/publications/Methodological-Framework-for-the-Principles-of-Public-Administration-ENP-Countries-May-2018.pdf>. This methodology is a further developed detailed specification of indicators used to measure the state of play against the Principles of Public Administration.

### **Analysis of Principles**

***Principle 1: An effective public administration reform agenda is developed which addresses key challenges and is systematically implemented and monitored.***

The strategic framework of PAR is incomplete. Only the areas of civil service, PFM, accountability and service delivery (from the perspective of electronic governance) are covered by separate strategies<sup>12</sup>, and no strategic document provides for reforms in the area of policy development and co-ordination. In addition, none of the existing PAR strategies refers to reforms that address gender equality. The PFM System Reform Strategy (PFMSRS) is the result of a revision of the area, based on the evaluation results of the 2010-2014 phase of the reform strategy covering the period 2010-2020, and adjusted to the introduction of the Public Expenditure and Financial Accountability (PEFA) measurement framework. The Anti-corruption Strategy and the Electronic Governance Strategy expired in 2018, while the Civil Service Strategy covers reforms until the end of 2019.

Not all key Government planning documents include activities or commitments in the majority of the PAR areas, and none of them refers to measures addressing the policy development and co-ordination area. The Armenia Development Strategy for 2014-2025<sup>13</sup> devotes a full chapter to PAR, including measures related to service delivery (e.g. the development of an e-registry system and enhancing interoperability of different state databases), PFM (e.g. strengthening the macroeconomic forecasts, the financial control systems or the standards of accounting and financial reporting), civil service reform (e.g. reforming the salary system or adjusting the recruitment and promotion of civil servants) and accountability (e.g. increasing the effectiveness of the administrative judiciary or measures related to access to public information). The Government Programme 2017-2020<sup>14</sup> indicates reforms in the areas of civil service (e.g. the commitment to introduce performance evaluation for civil servants), service delivery (e.g. the commitments for developing digital solutions and increasing interoperability platforms or commitments on administrative simplification and for expanding the system of one-stop shops) and accountability (e.g. commitments on anti-corruption measures), as well as PFM (e.g. the commitment to introduce new fiscal rules for debt management or the commitment to expand the e-procurement system). On the other hand, the Government Programme 2018<sup>15</sup> contains commitments only related to the area of accountability (e.g. regarding publication of information related to the functioning of state institutions and anti-corruption).

The PAR-related strategies are coherent with each other. No instances of conflicting deadlines, responsibilities or objectives have been identified between the Anti-corruption and Civil Service Strategies where they cover overlapping areas of reforms<sup>16</sup>, and there is no thematic overlap between these Strategies and the PFMSRS or the Electronic Governance Strategy. As regards the coherence of the PAR strategies with the Government's legislative plan, the only draft law provided for in the strategies

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<sup>12</sup> Strategy Program on Electronic Governance, Government of Armenia Protocol Decree No. 14, 10 April 2014; Civil Service Reform Strategy of the Republic of Armenia, Government of Armenia Protocol Decree No. 57, 29 December 2015; The Public Financial Management System Reform Revised Strategy and Action Plan 2016-2020, Government of Armenia Protocol Decree No. 6, 18 February 2016; Anti-corruption Strategy of the Republic of Armenia and its 2015-2018 Action Plan, Decision of the Government of the Republic of Armenia No. 1 141-N of 25 September 2015.

<sup>13</sup> Armenia Development Strategy for 2014-2025, Government of Armenia Protocol Decree No. 442, 27 March 2014.

<sup>14</sup> Decision of the Government of the Republic of Armenia No. 646-A of 19 June 2017 on the Programme of the Government of the Republic of Armenia 2017-2022.

<sup>15</sup> Government Programme of the Republic of Armenia 2018, Government of Armenia Protocol Decree No. 581, 1 June 2018.

<sup>16</sup> Both the Anti-corruption Strategy and the Civil Service Strategy define actions related to ethics and integrity and selection and recruitment. The corresponding activities for these topics assign the same institutions and the same deadlines for completing the tasks, mainly the development of provisions in the respective laws by 2016.

for 2018<sup>17</sup> does not appear in the corresponding Activity Programmes of the Government<sup>18</sup>, which also include the legislative initiatives.

The quality of the PAR strategies suffers from some important deficiencies. While each of the four strategies provides an analysis of the current state of affairs in the respective area and defines policy objectives to address the problems identified, they vary widely in their analysis of the problems<sup>19</sup>. As for attributing responsibility for implementing the planned activities, they are not always linked to specific institutions and responsibility cannot be clearly identified. For example, for the majority of the activities envisaged in the Action Plan of the PFMSRS, the responsible institution identified is the Ministry of Finance (MoF) itself. No further indication is provided as to which unit or department of the Ministry is responsible for the implementation of the given action. The identification of responsibilities in the Electronic Governance Strategy is also too general, as all activities are the responsibility of a single body, the E-governance Infrastructure Implementation Unit (EKENG) – Closed Joint Stock Company. This applies even to amending legislation, although logically the responsibility should lie with the ministry in charge of the respective law.

Detailed costing information for the majority of the planned activities is not provided in the documents. Each strategy, furthermore, uses a formulation on the costs of certain activities, specifying that the “source of funding is not prohibited by Armenian laws”. However, no details are included on the amount of funding necessary. This makes it impossible to assess the amount of funds needed for implementation. Furthermore, apart from the Anti-corruption Strategy, there is no evidence that any of the other PAR strategies was formulated in consultation with non-state stakeholders<sup>20</sup>.

Of the four PAR-related strategies, the Anti-corruption Strategy has outcome-level indicators, but these are not attached to the defined objectives and do not have properly established target values. The PFMSRS refers to the PEFA indicators as its measurement framework, but without defining clearly identifiable targets. The Civil Service Strategy sets a mixture of output and outcome-oriented goals, but in the case of the latter, no measurable indicators are defined. The Electronic Governance Strategy does not define measurable indicators at any level, and does not specify exact monitoring and reporting processes, responsibilities and reporting frequency. The other three strategies define these aspects, but to varying degrees. The PFMSRS prescribes quarterly reporting by the responsible implementers and annual reporting to the Government by the Minister of Finance, as chair of the PFMSRS Steering Committee<sup>21</sup>. Reports are developed by the Public Finance Management Methodology Department of the MoF, as the Secretariat of the Committee. The Anti-corruption Strategy envisages semi-annual and annual public reporting. This is to be developed by the Anti-corruption Programme Monitoring Division of the OPM, and is to be discussed by the Anti-corruption Council and is to involve numerous non-state stakeholders. The Civil Service Strategy defines annual reporting to the Government by the Civil Service Council.

In practice, monitoring reports are developed only for the PFMSRS and the Anti-corruption Strategy. Only the Anti-corruption Strategy is available publicly. Furthermore, for 2017, only the PFMSRS annual

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<sup>17</sup> The Financial Management and Oversight Law in the PFMSRS Action Plan.

<sup>18</sup> Decision of the Government of the Republic of Armenia No. 275-N of 11 January 2018 on the Approval of the Activity Programme of the Government of Armenia for 2018 and Decision of the Government of the Republic of Armenia No. 1030-L of 6 September 2018 on the Approval of the Programme of Activities of the Government of the Republic of Armenia for 2018-2022.

<sup>19</sup> For example, in the case of the Electronic Governance Strategy, paragraphs 15 to 21 list the main problems, to provide a general overview of the main deficiencies. However, no tangible evidence and data are attached to the problem statements.

<sup>20</sup> The Anti-corruption Strategy was approved during the meeting of the Anti-corruption Council on 28 July 2015, which was chaired by the Prime Minister and included several non-state participants. Thereafter it was approved by Decision of the Government of the Republic of Armenia No. 1141-N of 25 September 2015.

<sup>21</sup> According to the Report on the implementation of the PFMSRS in 2017, and as confirmed in interviews with representatives of the MoF, the PFMSRS Steering Committee discusses the PFMSRS reports. Members of the Parliament participate in the Committee, and representatives of NGOs could also take part, but they have not so far participated in Committee meetings.

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report has been prepared. As for the Anti-corruption Strategy, no unified report is available, but separate reports for 2016 and 2017 cover the implementation of actions under the responsibility of the OPM and Ministry of Justice (MoJ). Both the Anti-corruption Strategy reports and the PFMSRS report are descriptive in nature and – in the absence of a comprehensive framework of defined indicators, with targets for outputs and outcomes – do not provide clear information on the achievement of the intended results or a comprehensive picture of the progress of implementation. As no information is available on the implementation of the other two PAR strategies, and given the limited account of progress in the available reports, the implementation rate of the planned activities and the fulfilment rate of objectives for PAR cannot be calculated.

Owing to the incomplete coverage of PAR, the fact that the new Government Programme does not adequately prioritise PAR, the shortcomings related to the quality of the PAR-related strategies, and the lack of monitoring information for assessing the progress of implementation and achievement of objectives, the value of the indicator measuring the quality of the strategic framework of PAR, effectiveness of implementation and comprehensiveness of the monitoring system is 1.

Quality of the strategic framework of public administration reform, effectiveness of implementation and comprehensiveness of the monitoring system						
This indicator measures the quality of the strategy for public administration reform (PAR) and related planning documents (i.e. to what extent the information provided is comprehensive, consistent and complete), including the relevance of planned reforms. It also measures the implementation rate and assesses the systems for monitoring and reporting.						
A separate indicator (1.2.1) measures financial sustainability and cost estimates in detail.						
Overall indicator value	0	<b>1</b>	2	3	4	5

Sub-indicators	Points
1. Coverage and scope of PAR planning documents	4/6
2. Reference to PAR in key horizontal planning documents	0/2
3. Coherence of PAR planning documents	2/4
4. Presence of minimum content of PAR planning documents	2/7
5. Quality of consultations related to PAR planning documents	0/2
6. Comprehensiveness of PAR reporting and monitoring	0/6
7. Implementation rate of PAR activities (%)	0/4
8. Fulfilment of PAR objectives (%)	0/4
<b>Total<sup>22</sup></b>	<b>8/35</b>

With the exception of the latest Government Programme, the key planning documents prioritise PAR to a sufficient extent, though neither they nor any strategic document address reforms in the area of policy development and co-ordination. The quality of the strategies is weak. They do not include outcome-level indicators with proper targets, systematic information on costs, clear attribution of responsibility for implementing the planned actions, or properly set monitoring requirements in every case. Since only the implementation of the PFMSRS and – in part – the Anti-corruption Strategy are monitored, progress of the reforms cannot be assessed. Only the Anti-corruption Strategy 2016 and 2017 progress reports of the OPM and the MoJ are published.

<sup>22</sup> Point conversion ranges: 0-5=0, 6-11=1, 12-17=2, 18-23=3, 24-29=4, 30-35=5.

**Principle 2: The financial sustainability of public administration reform is ensured.**

Costing of the strategic framework of PAR is incomplete. The PAR-related strategies do not include systematic estimates of the additional costs needed for implementation of the planned activities. Only 76 (that is, 46%) of the total of 165 activities defined in the action plans of the Civil Service Strategy, the Electronic Governance Strategy, the Anti-corruption Strategy and the PFMSRS contain any information on the cost of their implementation. Of the 76 costed activities, 65 indicate no need for additional funding. In most cases this is justifiable, as the majority of such activities involve legislation. However, all four PAR-related strategies include activities that involve training and capacity development, but no further financial resources are specified. Moreover, all the strategies include actions where the source of funding states “financing not forbidden by Armenian law”, giving no further details on the funds needed for their implementation. This makes it impossible to assess their exact costs<sup>23</sup>. Additionally, cost estimates for the activities in the PAR strategies do not differentiate between one-off and recurring expenditures.

**Table 1. Costing of activities in PAR-related strategies**

	Civil Service Strategy	Electronic Governance Strategy	PFMSRS	Anti-corruption Strategy	Total
Number of activities	22	22	67	54	165
Number of costed activities	15	10	20	31	76
Of the costed activities, number of activities without additional funding needs	11	10	13	31	65

Source: SIGMA calculation, based on the analysed strategies

Owing to the lack of activity-specific clear and detailed cost estimates for reforms to be funded by the national budget in the PAR-related strategies, which allows them to be compared with their coverage in the corresponding annual budget, the value of the sub-indicator measuring the actual funding of PAR is zero.

Apart from the limited number of costed activities in the action plans of the PAR strategies, only the PFMSRS Action Plan indicates the need for donor funding in a clearly identifiable manner. Even this document is inconsistent in this respect. For example, while for the activity of enhancing the e-procurement system with the purchase and implementation of software the amount of necessary funds is clearly identified, along with the donor source (the World Bank), in the case of the activity related to extending the public sector accounting system, no additional costs are calculated. The source indication only refers to the World Bank, the European Union and the International Monetary Fund, providing no further detail. Nevertheless, analysis of the three activities with the highest expenditure estimates<sup>24</sup> were all identifiable in corresponding donor-funding documents.

<sup>23</sup> For example: PFMSRS Action Plan, action 1.3.; Electronic Governance Strategy Action Plan, action 2.5; Civil Service Strategy Action Plan, action 10; Anti-corruption Strategy Action Plan, action 5.

<sup>24</sup> PFMSRS activity 3.3 on the improved functionality of the e-procurement system, activity 8.3 on institutional capacity building for improved corporate financial reporting and audit, and activity 11 on the establishment of the government financial management information system (GFMIS).

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Due to the limited availability of data and information on the costs and sources of funding of planned reforms, the value of the indicator measuring the financial sustainability of PAR is 0.

Financial sustainability of PAR						
This indicator measures to what extent financial sustainability has been ensured in PAR as a result of good financial planning.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. Costed PAR activities (%)	0/3
2. Completeness of financial information in PAR planning documents	0/4
3. Actual funding of the PAR agenda	0/3
<b>Total<sup>25</sup></b>	<b>0/10</b>

**Financial information on the costs of implementing the PAR strategies is incomplete. Only a minority of the planned activities are costed. The financial information included in the action plans of the PAR strategies does not clarify the sources of funding or contain disaggregated information about one-off and recurrent additional costs. Actual funding of PAR is not ensured.**

***Principle 3: Institutions involved in public administration reform have clear responsibility for reform initiatives and the capacity to implement them.***

Overall, political responsibility for PAR is assigned to the First DPM, as stipulated in the regulation defining his responsibilities<sup>26</sup>. Organisational and managerial responsibility for overall PAR co-ordination is not specifically established in the Statute of the Office of the First DPM<sup>27</sup> and for the different PAR areas it is set only for the PFM, anti-corruption and civil service reforms. The organisational responsibility for PFM is assigned to the MoF, and its PFM Methodology Department is responsible at the managerial level<sup>28</sup>. For the reforms under the accountability area (as defined in the Anti-corruption Strategy), the organisational responsibility is assigned to the MoJ, while the managerial responsibility for co-ordination and monitoring is delegated to the Anti-corruption Programme and Monitoring Division of the OPM, under the management of the First DPM<sup>29</sup>. For the civil service reform, the organisational and managerial

<sup>25</sup> Point conversion ranges: 0=0, 1-3=1, 4-5=2, 6-7=3, 8-9=4, 10=5.

<sup>26</sup> Annex to Decision No. 565-L of the Prime Minister of the Republic of Armenia of 25 May 2018 on the Spheres of Activity of the Government of the Republic of Armenia Under the Co-ordination of the Deputy Prime Ministers of the Republic of Armenia.

<sup>27</sup> Decision No. 566-L of the Prime Minister of the Republic of Armenia of 25 May 2018 on the Approval of the Statute of the First Deputy Prime Minister Ararat Mirzoyan's Office.

<sup>28</sup> Decision No. 743-L of the Prime Minister of the Republic of Armenia of 11 June 2018 on the Approval of the Statute of the Ministry of Finance, the PFMSRS and, consequently, the Decision of the Minister of Finance of the Republic of Armenia No. 44-A of 22 April 2016, assign the responsibility for co-ordination and monitoring to the PFM Methodology Department of the MoF, as the Secretariat of the PFMSRS Steering Committee.

<sup>29</sup> Decision of the Prime Minister of the Republic of Armenia No. 704-L of 11 June 2018 on the Approval of the Statute of the MoJ; Decision of the Government of the Republic of Armenia No. 165-N of 19 February 2015 on Establishing the Anti-corruption Council and Expert Task Force, on approving the composition of the Council and rules of procedure for the Council, Expert Task Force and Anti-corruption Programmes Monitoring Division of the Staff of the Government of the Republic of Armenia; Decision of the Government of the Republic of Armenia No. 1 383-N of 29 December 2016 on Making Amendments to Decision of the Government of the Republic of Armenia No. 165-N of 19 February 2015, and Decision No. 566-L of the Prime Minister of the Republic of Armenia of 25 May 2018 on the Approval of the Statute of the First Deputy Prime Minister Ararat Mirzoyan's Office.

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responsibilities are attributed to the CSO<sup>30</sup>. In the service delivery area, the political responsibility is assigned to another DPM<sup>31</sup> and – while the Electronic Governance Strategy is unclear in terms of co-ordination assignment – responsibility for implementation is delegated to the EKENG. The strategic co-ordinator, until its liquidation has been decided by its Board of Trustees, was the DAF<sup>32</sup>, which left the reform area without clear organisational or managerial responsibility. In the absence of strategic coverage of the area of policy development and co-ordination, there is no assigned organisational or managerial responsibility for the co-ordination of reforms in this area.

Individual or managerial responsibilities have not been clearly assigned for the activities planned in the PAR-related strategies. The majority of the activities are assigned only to the implementing institution (e.g. the MoF for most of the PFMSRS activities, the MoJ and the OPM for activities in the Anti-corruption Strategy, the CSO in the Civil Service Strategy and the EKENG for all activities in the Electronic Governance Strategy), without further detailing which unit or manager of the organisation is responsible for implementation.

The PAR Commission, established in 1999<sup>33</sup>, is the highest political-level horizontal co-ordination forum for PAR, chaired by the First DPM with the participation of the MoJ, the MoF, the Ministry of Territorial Administration and Development, representatives of CSOs, the Central Bank, the State Committee for Urban Development, the Audit Chamber and the police. According to the evidence provided<sup>34</sup>, the PAR Commission met on 2 October 2018 and took decisions related to the electronic government agenda. There is no evidence whether non-state actors also took part in this meeting. With the exception of the Electronic Governance Strategy, co-ordination forums for individual PAR strategies have been established, were functional and made corresponding decisions related to the PAR areas in 2017. The PFMSRS Steering Committee, chaired by the Minister of Finance, is composed of representatives of the MoF, representatives of the Financial-Credit and Budgetary Affairs Committee of the Assembly and representatives of the Chamber of Control<sup>35</sup>. The Anti-corruption Council<sup>36</sup> is chaired by the Prime Minister and is composed of representatives of all institutions with responsibility for the implementation of the reforms, as well as representatives of the donor community and other non-state actors. It met four times in 2017 and once in 2018, on 22 March. The Public Sector Reform Working Group, chaired by the First DPM, which is composed of representatives of the OPM, the CSO, the MoF, the MoJ, the President's Office and the Ethics Committee of High-Ranking Officials, has been formed to elaborate the new regulatory framework for the civil service in accordance with the constitutional changes<sup>37</sup>. It met

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<sup>30</sup> Decision of the Prime Minister of the Republic of Armenia No. 973-L of 17 July 2018 on the Statute of the Civil Service Office of the Office of the Prime Minister of the Republic of Armenia. The CSO, also subordinate to the First DPM, has 38 staff to co-ordinate and implement civil service reform.

<sup>31</sup> Article 2 of the Annex to Decision No. 565-L of the Prime Minister of the Republic of Armenia of 25 May 2018 on the Spheres of Activity of the Government of the Republic of Armenia Under the Co-ordination of the Deputy Prime Ministers of the Republic of Armenia.

<sup>32</sup> Decision No. 926-N of the Government of the Republic of Armenia of 3 August 2017 on the Creation and Statute of the Digital Armenia Foundation.

<sup>33</sup> Prime Minister Decision No. 544 on Priority Actions of the Republic of Armenia Public Administration Reform, 3 September 1999 and Prime Minister Decision No. 624 on Approving the Statute of the Republic of Armenia Public Administration Reform Commission, 7 October 1999. Its composition was most recently set by Decision of the Prime Minister of the Republic of Armenia No. 625-A of 6 June 2018 on Approving Changes to the Composition of the PAR Commission.

<sup>34</sup> Protocol Decision of the PAR Commission No. 228 of 2 October 2018.

<sup>35</sup> Decision of the Minister of Finance of the Republic of Armenia No. 202-A, 6 May 2017.

<sup>36</sup> As established by the Decision of the Government of the Republic of Armenia No. 165-N of 19 February 2015 on Establishing the Anti-corruption Council and Expert Task Force, on approving the composition of the Council and rules of procedure for the Council, Expert Task Force and Anti-corruption Programmes Monitoring Division of the Staff of the Government of the Republic of Armenia.

<sup>37</sup> Decision SC-263-A of the President of the Republic of Armenia on the Creation of the Public Service Reform Project Working Group, 20 December 2016.

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seven times in 2017, most recently on 23 February 2017. There is no evidence of any co-ordination between the lead organisations in charge of the different PAR areas.

Due to the incomplete organisational and managerial attribution of responsibilities for the co-ordination, monitoring and reporting of all the PAR areas and the incomplete co-ordination arrangements for the implementation of the Electronic Governance Strategy, the value of the indicator measuring the accountability for and co-ordination of PAR is 2.

Accountability and co-ordination in PAR						
This indicator measures the extent to which leadership and accountability in PAR are established, the regularity and quality of co-ordination mechanisms at both the political and administrative levels, and the performance of the leading institution.						
Overall indicator value	0	1	<b>2</b>	3	4	5

Sub-indicators	Points
1. Establishment of organisational and managerial accountability for PAR	2/6
2. Co-ordination mechanisms for PAR	6/10
<b>Total<sup>38</sup></b>	<b>8/16</b>

**Although overall responsibility for PAR is assigned, the organisational and managerial responsibilities for PAR co-ordination and monitoring in general and for all PAR-related areas are not fully defined. Responsibility for the implementation of all PAR-related activities is not clearly set. The area-specific co-ordination arrangements are incomplete.**

<sup>38</sup> Point conversion ranges: 0-2=0, 3-5=1, 6-8=2, 9-11=3, 12-14=4, 15-16=5.

**Key recommendations**

**Short-term (1-2 years)**

- 1) The Government should ensure that the PAR priorities are comprehensively covered in its planning documents. The Government should also adopt strategic document(s) covering all PAR areas with clear and evidence-based problem identification, well-formulated objectives, corresponding outcome-level indicators with defined baseline and target values, comprehensively costed and well-assigned activities and properly elaborated monitoring, reporting and evaluation requirements and processes.
- 2) The Government should ensure that the development of any PAR strategic document should be participatory and should take into account the gender aspects of the policy areas covered.
- 3) The Government and the MoF should strengthen the financial sustainability of PAR through complete cost estimates for all planned activities, with detailed financial information about their exact source and in a format disaggregating temporary costs, one-off costs or recurring expenditures. Cost estimates should be realistic and should be identifiable in the national budget documents.
- 4) The Government should assign organisational and managerial responsibilities comprehensively for all PAR areas and should adopt and operationalise co-ordination forums that allow for regular co-ordination of the PAR agenda with the inclusion of non-state actors.

**Medium-term (3-5 years)**

- 5) Along with the development and adoption of a comprehensive PAR strategic framework, the Government should ensure the development and gradual application of sound, participatory and publicly accessible monitoring and reporting settings and utilise the monitoring system for regular revision of the reform implementation progress, by taking the necessary corrective measures to attain the agreed strategic objectives.
- 6) The Government should develop capacity within the administration to steer and utilise proper evaluation mechanisms at major implementation milestones of the PAR strategic documents and should use the results of such evaluation for organisational learning and enhancement of the PAR strategic framework.



## POLICY DEVELOPMENT AND CO-ORDINATION

### 1. STATE OF PLAY AND MAIN DEVELOPMENTS: JANUARY 2017 – DECEMBER 2018

#### 1.1. State of play

The legal framework for policy development and co-ordination is in place, but it is not comprehensively supported by guidelines and guidance from the centre of government (CoG), especially for strategic planning and monitoring. The quality of strategic planning and monitoring is poor, without properly defined policy objectives, outcome-level indicators or detailed cost estimates. In addition, the key central planning documents are not fully aligned with each other. Furthermore, reports on the implementation of central planning documents are not comprehensively available for public scrutiny.

While the transparency of the Government's decision-making is commendable, internal enforcement of adherence to the procedural policy-development and consultation requirements is not consistent, and insufficient attention is paid to ensuring that policies are affordable.

The Assembly is duly mandated to scrutinise the Government's policy making, and the co-ordination between the Assembly and the Government is functional. The Assembly faces substantial unpredictability in terms of the Government's legislative activities, as the original legislative plans are not followed. In addition, a large number of laws are adopted in extraordinary proceedings.

With the exception of the regulation on the conduct of impact assessments, which is in a transitional phase, the legal framework for policy development is in place. The requirements and standards for evidence-based policy making and public consultations are not fully complied with in practice. The quality of Regulatory Impact Assessment (RIA) is especially weak. Public consultations are centred on draft laws and not fully integrated into the policy-making process. Both primary and secondary legislation are available online, free of charge, and consolidation of amendments to the body of regulation is practiced, but the central registry of regulation is not kept fully up to date.

#### 1.2. Main developments

As a consequence of the constitutional transformation from a presidential system, most of the regulation related to the set-up and functioning of the Government, legislative drafting and the policy development processes have changed in 2017 and 2018. With the transition of the Government structure and functioning, what used to be known as the Staff of the Government is now called the Office of the Prime Minister (OPM)<sup>39</sup>. While most structural units are similar, a new department, the Programming and Monitoring Department and later the Programmes Expertise Department (PED), has been established to co-ordinate the development of the activity planning of the Government and to act as the centre for quality assurance for developing strategies.

The Rules of Procedure (RoP) of the Government have also changed<sup>40</sup>. The provisions of the previous RoP and the Government Internal Document Processing Procedures have been merged and important adjustments have been made to the planning of the work programme of the Government: multiannual planning has been introduced and information on the comments received during public consultations are now included. By comparison with the previous regulation, the provisions for strategic planning have been enhanced<sup>41</sup> and further detailed. A new Law on legislative drafting<sup>42</sup> has also been recently

<sup>39</sup> Law on the Government Structure and Activity HO-253-N, 23 March 2018; Decision of the Prime Minister of the Republic of Armenia No. 564-L, 25 May 2018 on the Charter of the Office of the Prime Minister (Statute of the OPM).

<sup>40</sup> Government Decision No. 667-L, 8 June 2018, on the Rules of Procedure of the Government.

<sup>41</sup> Protocol Decision of the Government No. 42, 5 October 2017, on Methodical Directive on Preparation, Submission and Monitoring of Strategic Documents Affecting State Revenues and Direct Expenditure.

<sup>42</sup> Law on Normative Legal Acts HO-180-N, 21 March 2018.

adopted. This involves corresponding changes in the rules of publication of legal acts<sup>43</sup> and the approach to the development of impact assessments. A decentralised approach, assessing different impacts of legislation by the relevant six ministries, has been replaced by a centralised impact assessment. The detailed rules of impact assessment, however, have not been adopted, so evidence-based substantiation of legislation is now in a transitional phase. In accordance with the new Law on legal drafting, new rules of public consultation have also been developed and adopted<sup>44</sup>.

In addition, in June 2018, a new Government was formed and a new Government Programme<sup>45</sup> and the first multiannual Activity Programme<sup>46</sup> were adopted.

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<sup>43</sup> Order of the Minister of Justice No. 180-N on Official Publication of Normative Legal Acts, 7 May 2018.

<sup>44</sup> Rules of Organizing and Holding Public Consultations on Draft Normative Legal Acts, Government Decree No. 1 146-N, 10 October 2018.

<sup>45</sup> Government Programme of the Republic of Armenia 2018, Government of Armenia Protocol Decree No. 581, 1 June 2018.

<sup>46</sup> Decision of the Government of the Republic of Armenia No. 1 030-L, 6 September 2018, on the Approval of the Programme of Activities of the Government of the Republic of Armenia for 2018-2022.

## 2. ANALYSIS

This analysis covers eight Principles for the policy development and co-ordination area, grouped under two key requirements. It includes a summary analysis of the indicator(s) used to assess against each Principle, including sub-indicators<sup>47</sup>, and an assessment of the state of play for each Principle. For each key requirement, short- and medium-term recommendations are presented.

### Policy planning and co-ordination

**Key requirement: Policy planning is harmonised and supports the country's ability to achieve its objectives; policy co-ordination ensures that decisions are prepared in a transparent and professional manner.**

The values of the indicators assessing Armenia's performance under this key requirement are displayed below.

Indicators	0	1	2	3	4	5
Quality of policy planning				◆		
Quality of government monitoring and reporting				◆		
Transparency of government decision making					◆	
Parliamentary scrutiny of government policy making				◆		

Legend: ◆ Indicator value

<sup>47</sup> OECD (2018), *Methodological Framework for the Principles of Public Administration: ENP Countries*, OECD, Paris, <http://www.sigmaweb.org/publications/Methodological-Framework-for-the-Principles-of-Public-Administration-ENP-Countries-May-2018.pdf>. This methodology is a further developed detailed specification of indicators used to measure the state of play against the Principles of Public Administration.

### **Analysis of Principles**

***Principle 1: Medium-term policy planning is harmonised, with consistent system-wide objectives, and is aligned with the financial circumstances of the state; sector policies meet the overall objectives set by the leadership and are consistent with the medium term budgetary framework.***

The legal framework for medium-term policy planning is established in the Constitution<sup>48</sup>, the RoP of the Government<sup>49</sup>, the Law on the Budgetary System<sup>50</sup> and the Strategic Planning Methodology<sup>51</sup>. The status of the key government planning documents is established in the legal framework, including the Government Programme<sup>52</sup>, the Government Activity Programme (GAP)<sup>53</sup>, the annual Budget<sup>54</sup> and the medium-term expenditure framework (MTEF)<sup>55</sup>, as well as strategies<sup>56</sup>. Though not explicitly mentioned in the regulations, the Armenia Development Strategy<sup>57</sup> is part of the key central planning documents, and its status derives from the Strategic Planning Methodology as a so-called Comprehensive Strategic Document<sup>58</sup>.

The new Government changed the regulation and the process for developing annual activity plans of the Government<sup>59</sup> in 2018, when a multiannual action plan was introduced<sup>60</sup>. The new, five-year GAP<sup>61</sup> covers the entire mandate of the Government and includes the planned legislative activities as well as the sectoral strategies to be adopted by the Government. It also, in a departure from previous practice, contains some cost estimates and funding source information related to the proposed measures. According to the regulation<sup>62</sup>, the PED of the OPM is tasked with co-ordinating the preparation of the GAP and compiles the final document. Inputs from the line ministries are first reviewed and selected for inclusion in the GAP by the OPM's relevant sectoral departments and the Legal Department. The co-ordination of the annual budget and the MTEF is defined by the Statute of the Ministry of Finance<sup>63</sup>, while the planning process is regulated by the Law on the Budgetary System<sup>64</sup>.

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<sup>48</sup> The Constitution of the Republic of Armenia of 5 July 1995, amended on 6 December 2015.

<sup>49</sup> Government Decision N 667-L, 8 June 2018, on the RoP of the Government.

<sup>50</sup> Law on the Budgetary System of the Republic of Armenia, 24 June 1997.

<sup>51</sup> Protocol Decision of the Government No. N42, 5 October 2017, on Methodical Directive on Preparation, Submission and Monitoring of Strategic Documents Affecting State Revenues and Direct Expenditure and Decision of the Government of the Republic of Armenia No. 2, 22 January 2015, on Methodological Guidelines for Concepts, Strategies and Programmes. This latter decision was repealed by the new Government Decision No. 42, 5 October 2017.

<sup>52</sup> Constitution, Article 151. Government Programme of the Republic of Armenia 2018, Government of Armenia Protocol Decree No. 581, 1 June 2018.

<sup>53</sup> RoP of the Government, Articles 4-9.

<sup>54</sup> Law on the Budgetary System, Article 1, point 2.

<sup>55</sup> Law on the Budgetary System, Article 21.

<sup>56</sup> Strategic Planning Methodology, General Provisions, Article 2.

<sup>57</sup> Armenia Development Strategy for 2014-2025, Government of Armenia Protocol Decree No. 442, 27 March 2014.

<sup>58</sup> Strategic Planning Methodology, the Hierarchy of and Main Requirements for Strategic Documents, Article 6-14.

<sup>59</sup> According to the old regulations in Article 5-9 of the Presidential Decree RA-52-N, 8 April 2004, on the Approval of the RoP of the Government and in Article 59 of the Decision of the Government of the Republic of Armenia No. 198-N, 4 March 2010, on the Approval of the RoP of the Government.

<sup>60</sup> RoP of the Government, Article 4.

<sup>61</sup> Decision of the Government of the Republic of Armenia No. 1 030-L, 6 September 2018, on the Approval of the Programme of Activities of the Government of the Republic of Armenia for 2018-2022.

<sup>62</sup> RoP of the Government, Article 3-6, Decision of the Prime Minister of the Republic of Armenia No. 803-N, 24 September 2009 on the Procedure for Drafting, Discussing and Supervising the Activity Plan and Priority Issues of the Government of the Republic of Armenia, Articles 12-19, and Article 42 of the Decision of the Prime Minister No. 564-L, 25 May 2018, on the Charter of the Office of the Prime Minister (Statute of the OPM).

<sup>63</sup> PM Decision No. 743-L, June 11 2018, on the Charter of the Ministry of Finance, Article 11.

<sup>64</sup> Law on the Budgetary System, Articles 21 and 22.

The system for planning sector strategies is formally established in regulation<sup>65</sup>, defining key concepts and quality requirements for different types of strategic documents. These include a requirement to detail their costing and sources of funding; the use of indicators; monitoring implementation of strategies; and reporting on the implementation on an annual basis. Since the formation of the new Government in June 2018, the PED of the OPM has been designated as responsible for quality control over strategy proposals<sup>66</sup>. In late 2017, a Programming and Monitoring Department was established<sup>67</sup> to support strategic programming and monitoring, and the Centre for Strategic Initiatives Foundation (CSI) was charged with helping to shape a long-term vision and strategy development<sup>68</sup>. However, the new Government decided to shut down the CSI in September 2018<sup>69</sup>.

Written guidelines are available on providing input to and reporting on the GAP<sup>70</sup> and the Budget (and the MTEF)<sup>71</sup>, but not for sector strategies. The Strategic Planning Methodology defines the key concepts and terms, as well as the processes for developing and monitoring strategies, but does not give the ministries further advice or examples or other tools to assist them in strategy development or monitoring. Pro-active guidance is provided annually for the budget planning process, including the revision of the MTEF. Analysis of the last five strategies<sup>72</sup> adopted in 2017, however, revealed<sup>73</sup> that guidance is not comprehensively provided by the OPM. Information provided about their review at the OPM shows comments related to their content or on the technical aspects of strategic planning for three of the five strategies. However, for the other two<sup>74</sup>, only comments of a legal nature were provided<sup>75</sup>. Furthermore, representatives of the OPM confirmed that the PED is not yet exercising its responsibility for quality control of strategy development.

Although both the GAP and the MTEF include priorities with defined objectives, they are not comprehensively aligned with each other. For example, priority measure No. 20 of the Ministry of Transport, Communication and Information Technologies on mapping and digitisation of the Armenian road network and priority measure No. 5.1 of the Ministry of Energy Infrastructures and Natural Resources, on the finalisation of a tender for and the start of construction of a solar power plant, are

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<sup>65</sup> Strategic Planning Methodology.

<sup>66</sup> Statute of the OPM, Article 42.

<sup>67</sup> Decision of the Government of the Republic of Armenia No. 1 577-N, 7 December 2017.

<sup>68</sup> Government Decree No. 1 342-A, 22 December 2016, on establishing a Centre for Strategic Initiatives Foundation, approving the statute governing it and appointing its executive director.

<sup>69</sup> Decision of the Government of Armenia No. 1003-N, 14 September 2018.

<sup>70</sup> Decision of the Government of the Republic of Armenia No. 803-N of 24 September 2009 on the Elaboration, Discussion and Monitoring of the Activity Programme and Priority Issues of the Government and Instruction of the Head of the Administration, 7 August 2018. According to representatives of the OPM, instructions on the preparation of the GAP are also provided in the Government's electronic document management system (Mulberry).

<sup>71</sup> Decision of the Prime Minister of the Republic of Armenia No. 1 559-A, 29 December 2017, on the Start of the Budgetary Process of the Republic of Armenia in 2019 and Methodological Instruction for the Preparation of the Medium-Term Expenditure Framework 2019-2021.

<sup>72</sup> Protocol Decision of the Government of the Republic of Armenia No. 54, 28 December 2017, on the Approval of the Radiomonitoring System Strategy; Protocol Decision of the Government of the Republic of Armenia No. 42, 5 October 2017 on the Approval of the Radioactive Waste Management Strategy; Protocol Decision of the Government of the Republic of Armenia No. 41, 28 September 2017, on the Approval of the Action Plan on Ensuring Biological, Chemical and Radioactive Safety; Protocol Decision of the Government of the Republic of Armenia No. 39, 14 September 2017 on the Approval of the Strategy on Increased Seismic Stability; and Protocol Decision of the Government of the Republic of Armenia No. 37, 31 August 2017, on the Approval of the Action Plan for the Strategy on Migration Policy 2017-2021.

<sup>73</sup> The methodological requirements established for strategy development have changed during the course of 2017. The analysis of strategies adopted before the new methodology came to force in October 2017 was thus measured against the previous legal requirements, set in 2015.

<sup>74</sup> The Radiomonitoring and Increased Seismic Stability Strategies.

<sup>75</sup> The OPM provides a single document that compiles all the comments on drafts received from within the organisation. It is thus not possible to identify which unit of the OPM provided comments on methodological aspects of the sample strategies.

featured in the GAP for 2018<sup>76</sup>, but are not included in the MTEF 2018-2020<sup>77</sup>. Furthermore, neither the MTEF nor the GAP include outcome-level indicators to measure the progress toward the policy objectives defined in these documents. On the other hand, analysis of the last five strategies indicates that draft laws provided for in sectoral action plans for 2018 are also included in the GAP. Only one strategy, the Migration Policy Strategy 2017-2021, calls for the development of a draft law in 2018, and that draft was included in the GAP for 2018.

Analysis of the GAP for 2017<sup>78</sup> and the first GAP for 2018<sup>79</sup> shows that only 3% of legislative activities, that is, two out of the 61 planned for adoption in 2017, reappear in the 2018 GAP and only 7%, one strategy out of the 15 originally planned from 2017, reappear in the 2018 plan.

Strategies do not contain detailed cost estimates for the implementation of planned activities, despite the legal requirement. The Radiomonitoring Strategy does not contain any cost estimates, and the Radioactive Waste Management Strategy has only a cost indication for the Strategy as a whole, with no details on the source of funding or estimations for the planned activities. The Biological, Chemical, Radioactive Safety Strategy, the Increased Seismic Stability Strategy and the Strategy on Migration Policy 2017-2021 all stipulate that no additional financing is needed for their implementation or that sources “not prohibited by law” will be used for the implementation of the planned activities, without giving any detailed estimates of the costs. Because of the lack of costing information in the sample strategies, it is also not possible to assess how they are aligned with the MTEF.

The legal framework for policy planning is comprehensive. However, as a result of the lack of comprehensive guidelines for the development and monitoring of sector strategies; the deficiencies in providing guidance for the development of strategic documents; the lack of indicators for measuring achievement of the objectives; the inconclusive alignment between the central planning documents of the Government; and the insufficient costing of sector strategies, the value of the indicator measuring the quality of policy planning is 3.

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<sup>76</sup> Decision of the Government of the Republic of Armenia No. 275-N, 11 January 2018, on the Approval of the Activity Programme and Priority Issues for the Government of Armenia for 2018.

<sup>77</sup> Decision of the Government of the Republic of Armenia No. 818-N, 6 July 2017, on the Medium-Term Expenditure Framework of the Republic of Armenia for 2018-2020.

<sup>78</sup> Decision of the Government of the Republic of Armenia No. 122-N of 12 January 2017 on the Approval of the Activity Programme and Priority Issues for the Government of Armenia for 2017.

<sup>79</sup> Decision of the Government of the Republic of Armenia No. 275-N of 11 January 2018 on the Approval of the Activity Programme and Priority Issues for the Government of Armenia for 2018.

Quality of policy planning						
This indicator measures the legislative, procedural and organisational set-up established for harmonised policy planning and the quality and alignment of planning documents. It also assesses the outcomes of the planning process (specifically the number of planned legislative commitments and sector strategies carried forward from one year to the next) and the extent to which the financial implications of sectoral strategies are adequately estimated.						
Overall indicator value	0	1	2	<b>3</b>	4	5

Sub-indicators	Points
1. Adequacy of the legal framework for policy planning	6/6
2. Availability of guidance to line ministries during the policy-planning process	2/5
3. Alignment between central policy-planning documents	2/6
4. Planned commitments carried forward in the legislative plan (%)	4/4
5. Planned sectoral strategies carried forward (%)	4/4
6. Completeness of financial estimates in sector strategies	0/5
7. Alignment between planned costs in sector policy plans and medium-term budget	0/3
<b>Total<sup>80</sup></b>	<b>18/33</b>

The legal framework for policy planning is established and comprehensive, but guidelines are not available for the development and monitoring of sector strategies, and guidance for their development is not consistently provided. The central planning documents do not contain outcome-level indicators for measuring the achievement of their objectives and are not fully aligned with each other. Sector strategies are not consistent in containing detailed information about cost estimates of activities and their source of funding. On the other hand, the number of legislative items or strategies planned for adoption that are carried forward from one year to another is limited, indicating that the Government's planning practice is realistic.

**Principle 2: Regular monitoring of performance against the plans enables public scrutiny and ensures the achievement of stated objectives.**

The legal framework for monitoring and reporting for key horizontal central planning documents is in place. The GAP includes the legislative plan of the Government, the RoP of the Government prescribe its process and timeline<sup>81</sup> and the Constitution requires its submission to the Assembly<sup>82</sup>. The Law on the Budgetary System<sup>83</sup> and the Constitution<sup>84</sup> regulate the monitoring and reporting requirements for implementing the annual budget. According to the Strategic Planning Methodology<sup>85</sup>, sectoral strategies are also required to be monitored and reported on annually by the responsible state organisations. The regulations also stipulate that the reports on all central planning documents must be disclosed to the public<sup>86</sup>.

<sup>80</sup> Point conversion ranges: 0-5=0, 6-11=1, 12-17=2, 18-23=3, 24-29=4, 30-33=5.

<sup>81</sup> RoP of the Government, Articles 7-9.

<sup>82</sup> Constitution, Article 156.

<sup>83</sup> Law on the Budgetary System, Article 25.

<sup>84</sup> Constitution Article 111.

<sup>85</sup> Strategic Planning Methodology, Article 21.

<sup>86</sup> RoP of the Government, Article 127 for the report on the GAP; Law on the Budgetary System, Article 26 on the Annual Budget Report and Strategic Planning Methodology, and Article 21 on strategies.

Under the Statute of the OPM, monitoring and reporting activities on the GAP are decentralised and divided between the sectoral departments of the OPM<sup>87</sup>. The PED compiles the inputs into a consolidated report for the Government. In addition to the annual report on the GAP, quarterly reports are also prepared by the OPM for internal use. According to the regulation<sup>88</sup>, the PED is responsible for performing quality assurance and supporting the implementation reporting on sector strategies, but representatives of the OPM report that it has not yet begun to assume this function.

As for the quality of the reporting documents, the report on the GAP is a simple tabular enumeration of the items of the GAP, but contains the elements necessary to assess the level of implementation of the plan (the responsible entity, completion date and outputs). In addition, a report on the implementation of the previous Government Programme, covering 1 September 2016 to 31 August 2017, has been prepared. This is a comprehensive stock taking of all areas covered under the Government Programme, describing in detail the efforts undertaken in each area. Analysis of the last five strategy reports from 2017<sup>89</sup> show that they provide an account of progress on the planned activities, but do not include any information on the achievement of the objectives. The strategies described in these reports were adopted under the methodological requirements for strategies set in 2015, which did not prescribe detailed requirements for formulating performance measurement indicators. Yet, three of the five strategies<sup>90</sup> include outcome-level indicators and targets, although these are set either for the medium term or for the end of the timeframe for implementation. While the annual budget report and the report on the implementation of the previous Government Programme are available to the public<sup>91</sup>, the annual GAP reports and some of the strategy reports are not accessible to the public<sup>92</sup>.

The legal framework for monitoring and reporting on the central planning documents of the Government is comprehensive. However, because the reports do not provide information on the achievement of the outcomes and because the annual GAP report and sector strategy reports are not available publicly, the value of the indicator measuring the quality of government monitoring and reporting is 3.

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<sup>87</sup> Statute of the OPM, Article 34 (3-4) for the Department of Defence, Security and Justice; Article 35 (2-3) for the Department for Territorial Development and Environmental Issues; Article 36 (2-4) for the Department for Social Affairs; Article 39 (2-3) for the Financial and Economic Department; and Article 44 (2-3) for the Division of National Minorities and Religious Affairs.

<sup>88</sup> Statute of the OPM, Article 42 (2).

<sup>89</sup> 2017 Annual report on the implementation of the Reproductive Health Strategy; 2017 Annual report on the implementation of the Strategy on Children and Adolescents Health Improvement 2016-2020; 2017 Ministry of Justice (MoJ) Report on the Action Plan for the National Strategy of Human Rights Defence, 2017 Annual report on the implementation of the Strategy on Science Development 2017-2020; and 2017 Annual report on the implementation of the Strategy Action Plan on Fight Against Tuberculosis 2016-2020.

<sup>90</sup> The Reproductive Health Strategy, the Children Adolescence Health Improvement Strategy and the Fight Against Tuberculosis Strategy.

<sup>91</sup> [http://www.minfin.am/hy/page/petakan\\_byujei\\_hashvetvutyun\\_2017\\_t\\_tarekan\\_/1](http://www.minfin.am/hy/page/petakan_byujei_hashvetvutyun_2017_t_tarekan_/1);  
[http://www.gov.am/u\\_files/file/2017-report/Government%20Report%20uploaded%2012\\_10\\_17.pdf](http://www.gov.am/u_files/file/2017-report/Government%20Report%20uploaded%2012_10_17.pdf),

<sup>92</sup> Reports on the Human Rights Defence Strategy and on the Fight Against Tuberculosis Strategy were available on the websites of the MoJ and the Ministry of Health respectively, but those for the other strategies were not.

Quality of government monitoring and reporting						
This indicator measures the strength of the legal framework regulating reporting requirements, the quality of government reporting documents and the level of public availability of government reports.						
Overall indicator value	0	1	2	<b>3</b>	4	5

Sub-indicators	Points
1. Adequacy of the legislative framework for monitoring and reporting	8/8
2. Quality of reporting documents	6/12
3. Public availability of government reports	1/5
<b>Total<sup>93</sup></b>	<b>15/25</b>

The legal framework for monitoring and reporting on the central planning documents of the Government is in place. However, none of the analysed reports provide information on the achievement of their objectives by reporting on the results through outcome-level indicator values. In addition, reports on the implementation of the GAP and on some strategies are not available to the public.

*Principle 3: Policy and legislative decisions are prepared in a transparent manner and based on the administration's professional judgement.*

The RoP of the Government establish clear requirements for the preparation, follow-up and communication of government sessions<sup>94</sup>. The required content, including the supporting documentation attached to draft legal acts and concept documents<sup>95</sup>, the process and deadlines for interministerial consultation<sup>96</sup>, the deadline for submission of materials for the Government agenda<sup>97</sup>, the deliberation process before a draft is tabled for the government session<sup>98</sup> are all defined. Drafts submitted by the proposing bodies are to be assigned by the Chief of Staff of the OPM to a “main responsible” unit, generally one of the sectoral departments of the OPM<sup>99</sup>, which then co-ordinates the review of the different aspects of the proposal between the relevant line units of the OPM and then also with the Legal Department of the OPM<sup>100</sup>. The Protocol Department of the OPM is mandated to prepare the draft agenda of the Government sessions and the corresponding dossiers, as well as to take the minutes of the sessions and all preceding committee sessions. The responsibility for scrutinising drafts from the perspective of their coherence with the Government Programme and existing Government policies is decentralised amongst the sector departments of the OPM<sup>101</sup>. The Chief of Staff of the OPM is also authorised to return items to the proposing bodies if they are not aligned with the legislation, the RoP of the Government, the Government Programme or existing policies of the Government<sup>102</sup>. Apart

<sup>93</sup> Point conversion ranges: 0-3=0, 4-7=1, 8-12=2, 13-17=3, 18-21=4, 22-25=5.

<sup>94</sup> RoP of the Government, Articles 10-43, and 105-115.

<sup>95</sup> RoP of the Government, Articles 16 and 19.

<sup>96</sup> RoP of the Government, Articles 20-22 and 25-26.

<sup>97</sup> RoP of the Government, Article 70. The Prime Minister approves the draft agenda of the Government session at least two days prior to the session. As a rule, the items included should have been accepted at the preparatory Committee sessions and submitted to the OPM for inclusion on the agenda.

<sup>98</sup> RoP of the Government, Articles 29-32 and 44-63, on the work of the Committees discussing proposals before sessions of the Government.

<sup>99</sup> The departments are defined in the Statute of the OPM, Articles 34, 35, 36, 39 and 44.

<sup>100</sup> RoP of the Government, Article 28.

<sup>101</sup> Statute of the OPM, Articles 34 (1), 35 (1), 36 (1), 39 (1) and 44 (1).

<sup>102</sup> RoP of the Government, Article 33.

from this general clause, no additional legal provision charges a specific unit of the OPM to review proposals for adherence to the procedural requirements of policy development and consultation. However, the PED is mandated to conduct a preliminary review of the impact assessments of proposing bodies<sup>103</sup> and the Ministry of Justice (MoJ) is the designated controller of the process and quality of public consultations<sup>104</sup>.

Analysis of the enforcement of the procedural and substantive requirements for policy development, using a review sample of the five last laws adopted by the Government in 2017<sup>105</sup>, showed that not all key aspects of quality control were functioning comprehensively. All samples included the required accompanying document, as prescribed by the regulation<sup>106</sup> for drafts for submission. The OPM's review of the alignment of proposals with the Government's previously announced priorities is functioning, although not altogether consistently. Comments are not always provided in writing or in a clearly trackable format<sup>107</sup>. Although the Ministry of Finance (MoF) provided comments on all drafts, it addressed their financial aspects only in three of the five sample cases analysed<sup>108</sup>. There is no systematic written evidence on the review of observing the procedural deadlines of consultation and quality control, but with the exception of the Law on Holidays and Commemoration Days, all the provided sample packages were shared on the consultation platform of the Government<sup>109</sup> for the legally prescribed time. Summary tables of opinions provided for the drafts also indicate that the required interministerial consultation deadlines were followed. While the OPM demonstrated that proposals are tabled and sent

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<sup>103</sup> Statute of the OPM, Article 42 (5).

<sup>104</sup> Decision of the Government of the Republic of Armenia No. 1 146-N, 10 October 2018, on the Rules of Organisation and Conduct of Holding Public Consultation, Article 15.

<sup>105</sup> Amendments to the Electoral Code, Administrative Code and the Law on Referendum of the Republic of Armenia, Government session of 28 December 2018, agenda item No. 5; Amendments to the Criminal Code and Criminal Proceeding Code and draft of the Law on Pardon of the Republic of Armenia, Government session of 28 December 2018, agenda item No. 38; Amendments to the Law on Waste, Law on Garbage and Sanitary Cleaning and to the Administrative Code of the Republic of Armenia, Government session of 28 December 2018, agenda item No. 43; Amendments to the Civil Code and the Law on Brands of the Republic of Armenia, Government session of 14 December 2018, agenda item No. 50 and Amendments to the Law on Holidays and Commemoration Days of the Republic of Armenia, Government session of 28 December 2018, agenda item No. 37.

<sup>106</sup> Because the samples provided were from 2017 and the new Rules of Procedure of the Government were adopted in June 2018, the samples were analysed against the regulation in force in 2017, the Decree of the President of the Republic of Armenia No. NH-52, 8 April 2004, on the Approval of the Rules of Procedure of the Government, and the Decision of the Government of the Republic of Armenia No. 198-N, 4 March 2010, on the Approval of Government Internal Document Processing Procedures. The key provisions on processes, responsibilities, timelines and mechanisms for the preparation, follow-up and communication of the Government sessions are similar to those defined in the new RoP of Government.

<sup>107</sup> Of the five last policy proposals of 2017, written comments by the OPM discussing the content and its alignment with existing policies were provided to the Electoral Code and the package of amendments to the Law on Waste and the Garbage and Sanitary Cleaning Law, while the OPM provided its content-related comments at meetings for the Law on Pardon and for the Law on Brands. No review was carried out for the Law on Holidays, as the proposal was originated by the OPM itself, and the RoP do not require the same revision for drafts developed by the OPM staff. Additional samples were also provided to demonstrate the review of policy proposals from the perspective of policy content. These were: comments of the OPM Financial and Economic Department provided for the package of Amendments to the Law on Accounting, Law on Auditing Activities, Law on Accounting Accounts and Law on Public Oversight and Audit, the Law on Non-Governmental Organisations, Law on Joint-Stock Companies and the Law on Licensing; package of the Decree on Determining the Procedure for Clarifying Taxpayers' Tax Liability.

<sup>108</sup> MoF comments on financial affordability were provided for the package of amendments to the Waste Management Law and the Garbage and Sanitary Cleaning Law, and for the package of amendments to the Electoral Code. Indirectly, with a neutral opinion, the MoF also commented on the financial viability of the package of the amendments to the Law on Holidays.

<sup>109</sup> <https://www.e-draft.am>.

back to ministries for shortcomings in policy-development and consultation procedure<sup>110</sup>, this practice is not consistent<sup>111</sup>.

According to the information provided by the OPM, in the fourth quarter of 2017, all 626 proposals were submitted to the Government agenda following the procedural deadlines<sup>112</sup>. In the fourth quarter of 2016, only one of the total 491 proposals was not submitted on time for inclusion to the following Government session's agenda.

**Table 1. Types of items submitted to the OPM for inclusion on the government agenda**

	Q4 2016	Q4 2017
Government decisions	434	539
Draft laws	52	87
Presidential orders	5	0
Total	491	626

Source: OPM of Armenia.

Agendas of Government sessions and the decisions, along with the documents discussed, are made publicly available online before the session<sup>113</sup>. Minutes of the decisions of the government sessions are kept and distributed after the sessions to all interested parties by the Protocol Division of the OPM, and electronically through internal document management. The Department for Information and Public Relations<sup>114</sup> of the OPM is responsible for communications for the Government and manages the website of the Government that serves as the platform for communicating key policy decisions after Government sessions<sup>115</sup>. Government decrees and decisions are also published online<sup>116</sup>.

Businesses' perception of the clarity and stability of the Government's policy making, as measured by a survey<sup>117</sup> of the business population is not generally favourable. Only 53% of the Armenian businesses surveyed consider that information on the laws and regulations affecting them are clearly written, are not contradictory and do not change frequently.

In light of these issues, the value of the indicator measuring the transparency of Government decision making is 4.

<sup>110</sup> Letter of the Chief of Staff of the OPM, 24 July 2018, on the Draft Law on Car and Vehicle Roads, requesting the submission of the RIA and the summary of public consultations; Letter of the Head of the Government Staff (Chief of Staff of the OPM) of 10 January 2018 on the Draft Law on Electronic Correspondence, requesting the submission of the RIA and the summary of public consultations; Letter of the Chief of Staff of the OPM of 4 September 2018 on the Draft Law Package on Audit, requesting the submission of the summary of inter-institutional and public consultations.

<sup>111</sup> Analysis of the provided sample Law on Inter-Community Unions of the Republic of Armenia, Government session of 16 December 2017, agenda item No. 18, shows that while the results of the consultations were not included in the package to the Government, the OPM did not comment on the proposal or halt its processing.

<sup>112</sup> The RoP of the Government, Article 70, states that the Prime Minister approves the draft agenda of the session of the Government at least two days prior to the meeting, implying that the agenda is based on items that arrive by that deadline. Nevertheless, the Law on Government Structure and Activity HO-253-N, 23 March 2018, Article 10 (10), allows ministers to suggest agenda items before the Government session at which the agenda is formally approved.

<sup>113</sup> <https://www.e-gov.am/sessions>.

<sup>114</sup> Statute of the OPM, Article 38.

<sup>115</sup> <http://www.gow.am/en/news>.

<sup>116</sup> <https://www.e-gov.am/gov-decrees/>.

<sup>117</sup> SIGMA-commissioned survey of businesses, conducted in October 2018.

Transparency of government decision making						
This indicator measures the legal framework established for decision making, the consistency of the government in implementation of the established legal framework, the transparency of government decision making, and businesses' perception of the clarity and stability of government policy making.						
Overall indicator value	0	1	2	3	<b>4</b>	5

Sub-indicators	Points
1. Adequacy of the legislative framework for government session procedures	5/5
2. Consistency in setting and enforcing government procedures	2/4
3. Timeliness of ministries' submission of regular agenda items to the government session (%)	3/3
4. Openness of the government decision-making process	4/4
5. Perceived clarity and stability of government policy making by businesses (%)	2/4
<b>Total<sup>118</sup></b>	<b>16/20</b>

**While the regulatory framework for the procedures of government decision making is complete and the transparency of the work of the Government is commendable, the quality assurance to ensure that proposals are financially affordable and that they follow the set consultation procedures is not fully effective.**

**Principle 4: The parliament oversees government policy making.**

The regulatory framework for parliamentary scrutiny of the Government's policy making is in place<sup>119</sup>. Procedures enable the Assembly and its committees to debate, scrutinise and amend Government policies and programmes<sup>120</sup>, as well as to foresee written and oral questions from members of Parliament to ministers and the participation of ministers or their deputies in the work of the Assembly when an issue under their supervision is discussed<sup>121</sup>. Legal drafting rules followed by the Assembly are the same as those followed by the Government<sup>122</sup>. Nevertheless, in terms of the required supporting documents, the Working Procedures of the Assembly<sup>123</sup> prescribe only the justification of the draft law and information on its budgetary impacts, but do not explicitly mention the inclusion of impact assessments or the results of public consultation in the case of Government-issued drafts. According to the regulations<sup>124</sup>, the Assembly sends the bills initiated by the Deputies of the Assembly to the Government, and the Government has the right to review every bill, but it is not obliged to express its opinion in each case.

The work of the Assembly and the Government is closely co-ordinated. A representative of the Government is invited to participate in the meetings of the Council of the Assembly during debate on

<sup>118</sup> Point conversion ranges: 0-1=0, 2-5=1, 6-9=2, 10-13=3, 14-17=4, 18-20=5.

<sup>119</sup> Constitution of the Republic of Armenia, amended on 6 December 2015; Constitutional Law of the Republic of Armenia of 16 December 2016 on the Rules of Procedure of the National Assembly, amended on 7 February 2018; and Decision of the National Assembly of the Republic of Armenia NAO-267-N of 16 December 2016 on the Working Procedures of the National Assembly.

<sup>120</sup> Constitution, Articles 111-113, 151 and 156; RoP of the Assembly, Chapters 5-7, 15-21, 24 and 25.

<sup>121</sup> Constitution, Articles 112 and 113; RoP of the Assembly, Articles 14, 30, 41, 44, 66, 70, 77, 81 and 114-121. Statute of the OPM, Article 31.

<sup>122</sup> Law on Normative Legal Acts HO-180-N, 21 March 2018.

<sup>123</sup> Working Procedures of the Assembly, Article 25.

<sup>124</sup> RoP of the Assembly, Articles 70, 77 and 81; Working Procedures of the Assembly, Article 31; Statute of the OPM, Article 31.

issues related to the agenda of the sessions of the Assembly<sup>125</sup>. In addition, the General Secretary of the Assembly has the right to take part in Government sessions<sup>126</sup>. Representatives of both the Assembly and the OPM confirmed that these co-ordination arrangements function regularly. Since the GAP is published on the website of the Government, the Assembly is also duly informed of the legislative plans of the Government.

According to the concordant statement of the Assembly and the Government, the Government participates in the parliamentary discussion of drafts. Representatives of the Government are always represented in plenary sessions at the political level when issues under their jurisdiction are being discussed and in committee sessions at the political or administrative level, if invited by the Assembly. Although no statistics are available to confirm this, when drafts are submitted to the Assembly by the Government, the submission letter also designates the minister responsible for representing the proposal at the Assembly's deliberations, suggesting that this is current practice.

As for the completeness of the documentation provided to the Assembly by the Government, analysis of the last five draft law proposals of the Government in 2017<sup>127</sup> shows that the drafts were submitted along with the required justification. The Government also submitted the conclusions of the impact assessments as well as the statements about any potential budgetary implications, but no information was provided to the Assembly about the results of public consultations. Results of written public consultations are nevertheless available online<sup>128</sup>.

Analysis of the sample of the last three proposals issued by Deputies of the Assembly demonstrates that the Government regularly reviews parliamentary legislation, if not invariably. The Government submitted its opinion on the proposal on Making Amendments to the Civil Code of the Republic of Armenia<sup>129</sup> and on the proposal on Making Amendments to the Law on Military Service and the Status of Military Servicemen<sup>130</sup>, but not on the proposal on Making Amendments to the Code of Administrative Procedures<sup>131</sup>.

The Government does not follow its legislative plan consistently: only 20% of its submissions are as planned. In 2017, the Government submitted 159 legislative proposals to the Assembly, of which only 32 originated in the 2017 GAP. The Assembly adopted 121 Government-sponsored proposals, and 26% of these, 32 proposals, were adopted in extraordinary proceedings. The ratio of Government-proposed laws adopted in extraordinary proceedings in 2016 was even higher, 53 out of a total of 94 proposals, or 56%. On the other hand, 13%, or 12 of the 94 laws submitted by the Government in 2016, were adopted or rejected more than a year after they were submitted to the Assembly.

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<sup>125</sup> RoP of the Assembly, Article 30.

<sup>126</sup> Law on the Government Structure and Activity, Article 10 (5).

<sup>127</sup> Draft Law on Making Amendments to the Law on Local Self-Government of 15 December 2017; Draft Law on Making Amendments to the Law on Inspection Agencies of 14 December 2017; Draft Law on Making Amendments to the Law on Securitization of Assets and the Securities Guaranteed by Assets of 20 December 2017; Draft Law on Making Amendments to the Law on Trade and Services of 21 December 2017; and Draft Law on Making Amendments to the Law on Environmental Supervision of 21 December 2017.

<sup>128</sup> On [www.e-draft.am](http://www.e-draft.am).

<sup>129</sup> Document code: P-178-07.11.2017-PIMI-011/0.

<sup>130</sup> Document code: P-231-21.12.2017-SA-011/0.

<sup>131</sup> Document code: P-212-13.12.2017-PIMI-011/0.

**Table 2. The number of laws submitted by the Government and discussed or circulated in the National Assembly in extraordinary proceedings**

		2016	2017
<b>Laws submitted by the Government</b>		94	159
Total	Recalled by the Government	2	12
	Approved or rejected in extraordinary proceedings	53	32

Source: SIGMA calculation, based on details of the proposals on the website of the Assembly.

Apart from the requirement that the Government must report annually on the implementation of the Budget Law and on the implementation of the Government Programme<sup>132</sup>, the presentation and discussion of implementation reports on major legislation or policies is not used as a tool by the Assembly for scrutinising the work of the Government.

Due to these factors and especially because of the weak alignment between the legislative plan and activity of the Government, and due to the high ratio of laws adopted in extraordinary proceedings, the value of the indicator measuring the parliamentary scrutiny of government policy making is 3.

<sup>132</sup> Constitution, Articles 111 and 156; RoP of the Assembly, Chapter 24, Article 127.

Parliamentary scrutiny of government policy making						
This indicator measures the extent to which the parliament oversees government policy making. The legal framework is assessed first, followed by an analysis of the functioning of important parliamentary practices and outcomes.						
Overall indicator value	0	1	2	<b>3</b>	4	5

Sub-indicators	Points
1. Strength of regulatory and procedural framework for parliamentary scrutiny of government policy making	4/5
2. Completeness of supporting documentation for draft laws submitted to the parliament	3/3
3. Co-ordination of governmental and parliamentary decision-making processes	2/2
4. Systematic review of parliamentary bills by government	0/1
5. Alignment between draft laws planned and submitted by the government (%)	0/2
6. Timeliness of parliamentary processing of draft laws from the government (%)	1/2
7. Use of extraordinary proceedings for the adoption of government-sponsored draft laws (%)	0/5
8. Government participation in parliamentary discussions of draft laws	2/2
9. Basic parliamentary scrutiny of the implementation of policies	0/2
<b>Total<sup>133</sup></b>	<b>12/24</b>

The regulatory and procedural framework is established for parliamentary scrutiny of Government policy making. Co-operation between the Assembly and the Government is regular and comprehensive. The Government is not consistently exercising its right to review legislative proposals of the Deputies of the Assembly. The alignment between the legislative plan and the actual submission of proposals by the Government is weak. The processing of drafts envisaged in the Government Programme by the National Assembly is not always timely. The proportion of Government-sponsored laws adopted in extraordinary proceedings is high. The Assembly does not discuss implementation reports on policies.

<sup>133</sup> Point conversion ranges: 0-3=0, 4-7=1, 8-11=2, 12-16=3, 17-20=4, 21-24=5.

**Key recommendations**

**Short-term (1-2 years)**

- 1) The OPM and the MoF should jointly provide comprehensive guidelines and active guidance for developing, monitoring and reporting sector strategies. This should include the preparation of properly detailed cost estimates at the level of activities that allow for aligning the plans with the budgetary planning documents and the development of performance measurement indicators with defined baseline and target values.
- 2) By developing and using outcome-level indicators, the Government should ensure that all central planning document reports provide information on the achievement of the defined objectives. All reports should be publicly available, as required by the regulation.
- 3) The OPM and the MoF should jointly ensure that the policy proposals are financially affordable and that the established policy development and consultation processes and requirements are fully adhered to.
- 4) The use of extraordinary procedures for the adoption of laws should be significantly reduced. Both the Government (in submitting draft laws to the Assembly) and the Assembly (when accepting draft laws into procedure) should provide justification for using such procedures.

**Medium-term (3-5 years)**

- 5) The Assembly should exercise its right to scrutinise the Government's work through discussion of the implementation of major laws and policies.

## Policy development

**Key requirement: Inclusive, evidence-based policy and legislative development enables the achievement of intended policy objectives.**

The values of the indicators assessing Armenia's performance under this key requirement are displayed below.

Indicators	0	1	2	3	4	5
Adequacy of organisation and procedures for supporting the development of implementable policies					◆	
Evidence-based policy making				◆		
Public consultation on public policy				◆		
Inter-institutional consultation on public policy						◆
Predictability and consistency of legislation					◆	
Accessibility of legislation					◆	

Legend: ◆ Indicator value

### **Analysis of Principles**

**Principle 5: The organisational structure, procedures and staff allocation of the responsible state institutions ensure the capacity to develop and implement policies and legislation that meet medium-term and annual objectives and plans.**

There are 17 ministries at present. Their areas of responsibility are established by the Law on the Government Structure and Activity (LGSA)<sup>134</sup>. The legal framework places the ultimate responsibility for policy development on ministries. According to the LGSA<sup>135</sup> and RoP of the Government<sup>136</sup>, only the Prime Minister (PM), Deputy Prime Ministers (DPMs) and ministers may submit issues to the Government for discussion, while subordinate central authorities and other state and local self-governing bodies must propose their initiatives to the corresponding member of the Government. Hence, neither of the latter bodies has the responsibility for drafting legislation or policies, or initiating inter-institutional or public consultations<sup>137</sup>.

This division of functions is followed in practice. According to information gathered during interviews with SIGMA, a specialised agency or foundation (e.g. the Agency for Aviation or the National Centre for Legislative Regulation) may prepare initial draft laws in certain areas. However, all such drafts are submitted to the ministries responsible, which have the mandate to conduct interministerial and public consultations and to submit the draft package to the Government.

<sup>134</sup> Law on the Government Structure and Activity HO-253-N, 23 March 2018.

<sup>135</sup> *Idem*, Article 11.

<sup>136</sup> RoP of the Government, Article 12.

<sup>137</sup> This Principle focuses on the policy-making process between ministries and subordinate agencies, while the role of agencies outside the ministerial hierarchy in policy making is analysed in more detail in the chapter on Accountability, Principle 1.

The mandates and functions of ministerial departments are defined by their charters, which are adopted by the respective ministers<sup>138</sup>. The general requirements for policy development procedures are established by the internal regulations of ministries. They include, among other things, the requirement to consult all affected departments and the legal department within the ministry<sup>139</sup>, to review the draft acts received from other ministries<sup>140</sup> and to resolve any substantial interdepartmental disagreements during a meeting convened by the chief of staff or the minister<sup>141</sup>. Heads of policy departments are in charge of policy development and legislative drafting in ministries<sup>142</sup>. They are also responsible for internal co-ordination and consultation of drafts. All drafts need to be approved and signed by the minister before they are submitted to the Government<sup>143</sup>.

According to information obtained during the interviews and from the documentation provided on policy proposals from the Ministry of Labour and Social Affairs<sup>144</sup>, the Ministry of Agriculture<sup>145</sup> and the Ministry of Nature Protection<sup>146</sup>, the established roles and responsibilities for policy development are followed consistently, internal consultations are regularly and comprehensively held, and legal departments are consulted consistently. However, the documentation from the fourth sample ministry, the Ministry of Economic Development and Investments, did not include any material on internal consultation procedures. The Ministry also reported that in-house co-ordination and exchange regularly takes place in the form of meetings and phone discussions, but that no written evidence (memos or minutes) is kept. Given that other ministries fully document their procedures, the lack of properly documented internal working procedures in the Ministry of Economic Development and Investments for the sample policy drafts provided<sup>147</sup>, means that adherence to internal policy-development procedures cannot be comprehensively assessed.

Analysis of staff distribution in the ministries shows that the percentage of civil servants dealing with policy development is higher than 30% in three of the four sample ministries.

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<sup>138</sup> According to the charters of the departments from four sample ministries provided for this assessment (Ministry of Agriculture, Ministry of Labour and Social Affairs, Ministry of Nature Protection and Ministry of Economic Development and Investments).

<sup>139</sup> For example, the RoP of the Ministry of Agriculture, adopted by Ministry Order, 17 January 2014, Article 44 and RoP of the Ministry of Economic Development and Investments, adopted by Ministry Order 17 January 2014, Articles 40 and 44.

<sup>140</sup> For example, the RoP of the Ministry of Nature Protection, adopted by Ministry Order, 13 July 2017, Articles 37 and 42.

<sup>141</sup> For example, the RoP of the Ministry of Agriculture, Article 46.

<sup>142</sup> *Ibid.*, Articles 41-45.

<sup>143</sup> For example, the RoP of the Ministry of Labour and Social Affairs, adopted by Ministry Order, 16 January 2014, Articles 45 and 83, and the RoP of the Ministry of Economic Development and Investments, adopted by Ministry Order 17 January 2014, Article 51.

<sup>144</sup> Draft Law on Multi-Child Families, October 2017; Draft Law on making Amendments to the Law of the Republic of Armenia on Employment of November 2017; Draft Law on Making Amendments to the Law on the Rights of Child of December 2017.

<sup>145</sup> Draft Law on Making Amendments to the Tax Code of the Republic of Armenia of November 2017; Draft Law on Making Amendments to the Law on Veterinary and Law on Local Self-Governments of December 2017; Draft Law package on State Inspectorate of Agricultural Machinery of December 2017.

<sup>146</sup> Draft Law on Making Amendments to the Water Code of the Republic of Armenia of December 2017; Draft Law on Environmental Impact Assessment and Expertise of October 2017; Draft Law on Making Amendments to the Subsoil Code of the Republic of Armenia of November 2017.

<sup>147</sup> Action Plan for the Improvement of Armenia's Position in the Global Competitiveness Index 2017-2018, July 2017; Policy Paper on Public-Private Partnership, November 2017.

**Table 3. Share of policy development staff in ministries on 31 December 2017**

Ministry	Total staff	Policy-development staff	Percentage
Ministry of Agriculture	145	46	32
Ministry of Nature Protection	203	53	26
Ministry of Economic Development and Investments	145	63	43
Ministry of Labour and Social Affairs	146	69	47

Source: SIGMA calculation, based on data provided by the ministries.

The regulatory framework for policy development within ministries is comprehensive and mostly followed in practice. However, there are cases where adherence to the internal policy-development processes is not clearly demonstrated and the share of policy development staff is low in one of the sample ministries, as a result, the value of the indicator measuring the adequacy of the organisation and procedures for supporting the development of implementable policies is 4.

### Adequacy of organisation and procedures for supporting the development of implementable policies

This indicator measures the adequacy of the regulatory framework to promote effective policy making, and whether staffing levels and the basic policy-making process work adequately at the level of ministries.

Overall indicator value	0	1	2	3	<b>4</b>	5
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Sub-indicators	Points
1. Adequacy of the regulatory framework for effective policy making	4/4
2. Staffing of policy-development departments (%)	1/2
3. Adequacy of policy-making processes at ministry level in practice	4/6
<b>Total<sup>148</sup></b>	<b>9/12</b>

Under the Law on the Government Structure and Activity, ministries are ultimately responsible for policy development. The general requirements for policy development are established by the internal regulations of ministries and mostly followed in practice. Staffing levels show that ministries are generally oriented towards policy development, only one of the sample ministries has a disproportionately low share of staff allocated to policy development.

*Principle 6: The policy-making and legal-drafting process is evidence-based, and impact assessment is consistently used across ministries.*

The legal framework for impact assessments is in a transitional phase. In March 2018, the new Law on Regulatory Legal Acts (LRLA)<sup>149</sup> was adopted. It states that broad impact assessment needs to be organised: 1) when directly required by the Government, and 2) when this is required by the governmental rules on RIA<sup>150</sup>. The Government, however, has not yet adopted such rules and guidance documents are also not available. Consequently, the system is not properly established. In comparison with the old Law<sup>151</sup>, the new Law changed the approach towards impact assessments. Impact assessments are now organised by the proposing ministry<sup>152</sup>, rather than decentralised in six different ministries.

In line with Governmental decisions from 2009 and 2010, the budgetary impact assessment was the responsibility of the MoF<sup>153</sup>, the RIA in the field of nature protection of the Ministry of Nature Protection<sup>154</sup>, the impact assessment for the field of anti-corruption of the MoJ<sup>155</sup>, for economy and competition of the Ministry of Economic Development and Investments<sup>156</sup>, for health of the Ministry of

<sup>148</sup> Point conversion ranges: 0=0, 1-2=1, 3-5=2, 6-8=3, 9-10=4, 11-12=5.

<sup>149</sup> LRLA, Law No. HO-180-N on Regulatory Legal Acts, 21 March 2018.

<sup>150</sup> LRLA, Article 5.

<sup>151</sup> Law on Legal Acts HO-320, 3 April 2002.

<sup>152</sup> According to the documents provided by the National Centre for Legislative Regulation (NCLR) on the design of the new RIA process, the plan is for the NCLR to conduct the RIAs, and gradually transfer this function to the ministries as capacities are developed through training sessions.

<sup>153</sup> Decree No. 1 021-N, 10 September 2009.

<sup>154</sup> Decree No. 921-N, 13 August 2009.

<sup>155</sup> Decree No. 1 205-N, 22 October 2009.

<sup>156</sup> Decree No. 1 159-N, 15 October 2009 and Decree No. 1 237-N, 29 October 2009.

Health<sup>157</sup> and for social protection of the Ministry of Labour and Social Affairs<sup>158</sup>. All decrees were annulled when the old Law was repealed in March 2018. In practice, however, the situation differs from ministry to ministry. The documentation provided<sup>159</sup> shows that some ministries are not aware that the old decrees are no longer in force and continue both to initiate and conduct RIAs (e.g. Ministry of Labour and Social Affairs, the Ministry of Emergency Situations, and the Ministry of Transport, Communication and Information Technologies), while the Ministry of Economic Development and Investments, for example, stopped developing them once the new Law came to force.

To address the shortcomings of the existing system, the National Centre for Legislative Regulation (NCLR), a foundation established by the Government in March 2016 as a successor to the National Centre for Legislative Regulation Project Implementation Unit (which was set up in 2011 to work on the reduction of administrative burdens)<sup>160</sup>, started to conduct impact assessments in parallel to the ministries. From the very start, the NCLR has been conducting RIAs at the request of the Prime Minister or ministries. It also participates at the weekly preliminary sessions of the Government, where it may propose which draft legal acts should be temporarily suspended in order to conduct RIAs. If the Government agrees, the NCLR is given 45 days to provide its impact assessment<sup>161</sup>. In the past two and a half years, it has conducted 43 RIAs<sup>162</sup>, and, as a result, some drafts have been changed and some were returned for substantial revision<sup>163</sup>. Although this approach has had some success, it does have, quite apart from its parallelism, some flaws. It is not systematic, since there are no criteria for selection of the laws for the assessment and the NCLR proposes the laws on its own initiative. Moreover, the assessment is conducted at the end of the drafting process, rather than at the beginning. Another indication that full integration of impact assessments in policy development has not yet been well thought through are the ongoing RIA training programmes for public officials. These have been run by the NCLR since 2017, serving over 70 participants so far. However, at the same time, the NCLR has been advocating for a fully centralised RIA system in which, at least for the next few years, RIAs would be conducted exclusively by the NCLR and not by the ministries.

The shortcomings of the old system were confirmed by the appraisal of RIA documents from 2017 for the provided sample of the five most recent new draft laws<sup>164</sup>. The quality of assessment in the sample laws is poor. Impacts are listed but are not assessed in any substantive way. Similarly, the explanatory

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<sup>157</sup> Decree No. 1 104-N, 23 September 2009.

<sup>158</sup> Decree No. 18-N, 18 January 2010.

<sup>159</sup> Sample impact assessments since the adoption of the LRLA.

<sup>160</sup> See <http://www.regulations.am/en/national-centre-for-legislative-regulation>.

<sup>161</sup> NCLR, Regulatory Impact Assessment Reform in the Republic of Armenia, p. 4.

<sup>162</sup> *Ibid.*

<sup>163</sup> As per examples provided by the NCLR: 1) in the case of the draft amendment to Government Decree No. 426-N, 31 March 2014, on Procedure for Veterinary Sanitary inspection of Products Produced by Animal Slaughter, the Ministry of Agriculture proposed a ban on selling slaughtered meat the following day, if it has not undergone veterinary and sanitary inspection and been classified as fit for human consumption. The NCLR, on the basis of its own RIA, proposed instead to prohibit the sale of meat that does not originate from livestock slaughtered in the specialised slaughterhouse. The Government approved the NCLR's proposal. 2) In 2017, the Ministry of Economic Development and Investments proposed a draft law package to introduce mandatory licensing for tour guides, operators and agents. The NCLR conducted RIA to assess any additional regulatory burden and on the basis of the analysis, opposed the proposal, suggesting leaving the regulation unchanged. Its proposal was accepted by the Government the draft law package was returned to the Ministry for further review and discussion of the NCLR's suggestion, as well as for other necessary changes and amendments.

<sup>164</sup> Amendments to the Criminal Code and Criminal Proceeding Code and draft of the Law on Pardon of the Republic of Armenia, Government session of 28 December 2018, agenda item No. 38; Draft Law on Television and Radio of the Republic of Armenia, Government session of 16 December 2017, agenda item No. 6; Draft Law on Prevention of Violence Within the Family, protection of Victims of Violence within the Family and Restoration of Peace in the Family of the Republic of Armenia, Government session of 16 December 2017, agenda item No. 27; Draft Constitutional Law on Constitutional Court of the Republic of Armenia, Government session of 16 December 2017, agenda item No. 7; Draft Law on Inter-Community Unions of the Republic of Armenia, Government session of 16 December 2017, agenda item No. 18. For the Draft Law on Pardon, the RIA was not provided and the documentation only included an assessment of legal compliance and a neutral assessment of budgetary impacts.

notes list the problems and reasons for the adoption of the new Law, but the problems are not analysed. Solutions are listed as responses to problems without identifying the overall objective<sup>165</sup>, and there are no assessments of alternatives. Only a single option is proposed<sup>166</sup>. Even in cases where impacts were identified, the ministries did not provide any observations or calculations other than the identification itself<sup>167</sup>. In addition, the impact assessments consider only direct (and rather narrow) impacts, without considering potential positive or negative long-term or indirect impact<sup>168</sup>. In addition, the background documents do not contain any information on how the implementation will be monitored or whether any evaluation will be conducted. Furthermore, the background analyses do not discuss issues of enforcement and implementation. The drafts analysed only regulate the tasks and responsibilities of different institutions for implementation, with no indication that the drafters took into consideration how the tasks will be carried out and what it will require to ensure that the new provisions will function effectively.

In sum, the old system created a fragmented policy-development process, under which the sponsoring ministries were not responsible for the analysis and the ministries responsible did not have the necessary information to conduct proper RIA analysis. In addition, the analysis, if conducted, was done at the very end of the process, rather than contributing to the drafting.

The RoP of the Government stipulate that every legal draft must include information on required “additional financial resources related to the issue proposed, as well as reference on the changes expected in the revenues and expenditures of the State Budget of the Republic of Armenia”<sup>169</sup>. In practice, budgetary impact assessment is used, though the explanatory notes touch upon the budgetary impact only very briefly, and only immediate and direct costs are calculated<sup>170</sup>. The reviews conducted by the MoF show that some impacts on the budget are identified, even if calculations are often not detailed or are provided only for some aspects of the content of the drafts<sup>171</sup>.

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<sup>165</sup> The justification for the Law on Television and Radio, for example, gives the main reasons for the adoption of the Law as the changes of the Constitution and some “technical” shortcomings, such as the need for new concepts, the language of the broadcast, etc. (a total of 20 reasons). The proposal also briefly lists the main solutions, without identifying the principal objectives.

<sup>166</sup> The Draft Law on Prevention of Violence within the Family is the most detailed, with clear descriptions of problems and a needs assessment, statistical data, reports of NGOs and international comparisons, but alternative solutions are not included.

<sup>167</sup> For example, the impact assessment of the Draft Law on Television and Radio for the area of social protection claims positive impacts, but provides no estimates, calculations or any other specifics on such impacts.

<sup>168</sup> In the case of the Draft Law on Prevention of Violence within the Family, for example, one of the positive impacts on the economy might be that the shelters and support centres would help the victims recover and regain a normal working life, reducing the negative effects of violence, such as sick leave or other impediments to work. The Draft Law on Inter-Community Unions could have a positive impact on the local economy, with mayors discussing joint measures to boost the economy and support businesses.

<sup>169</sup> RoP of the Government, Article 16.

<sup>170</sup> In four out five sample cases, the explanatory notes state that there is no impact on the budget, while the Law on Prevention of Violence within the Family includes no reference to the budget at all and the budgetary impact assessment was not attached to the analysed documentation dossier. On the other hand, in its opinion on the package, the MoF refers to the budget impact statement, indicating a neutral budget implication. The MoF notes that the package will have a negative impact on the budget and that the 2017-2019 MTEF does not provide appropriate funding, recommending that some provisions of the proposal should not be adopted because of the lack of funding. The draft was duly adjusted and an additional document developed and submitted to the Government to satisfy the MoF’s concerns.

<sup>171</sup> For example, in the Draft Law on the Constitutional Court, only the judges’ salary increases are calculated, with no financial calculations on the increase in staff needed for the heavier workload. In the case of the Draft Law on Television and Radio, benefits are observed. The increase in the workload and the need to employ new support staff at the National Broadcasting Commission is completely neglected, even though the Commission is given a number of new responsibilities.

Quality assurance is directly regulated only for budgetary impacts by the MoF, but not for any other impact assessments<sup>172</sup>. As a result, no effective, comprehensive quality assurance for evidence-based policy making is in place<sup>173</sup>.

Given that the legal framework for conducting impact assessment is only partially established and no guidelines are laid out to help direct analysis, and that the quality of assessments is poor and not supported by comprehensive quality control, the value of the indicator measuring evidence-based policy making is 3.

Evidence-based policy making						
This indicator measures the functioning of evidence-based policy making. It assesses the legal requirements and practice regarding the use of basic consultative processes, budgetary impact assessment and impact assessment. Moreover, it assesses the availability of training and guidance documents for impact assessment, the establishment of the quality control function, and the quality of analysis supporting the approval of draft laws.						
Overall indicator value	0	1	2	<b>3</b>	4	5

Sub-indicators	Points
1. Regulation and use of basic analytical tools and techniques to assess the potential impact of draft new laws	2/2
2. Regulation and use of budgetary impact assessment prior to approval of policies	3/3
3. Regulation and use of Regulatory Impact Assessments	2/3
4. Availability of guidance documents on impact assessment	0/2
5. Quality control of impact assessments	2/3
6. Quality of analysis in impact assessments	4/15
<b>Total<sup>174</sup></b>	<b>13/28</b>

**In March 2018, the new LRLA reframing the system of impact assessments was adopted but the new sub-regulations and detailed guidelines have not been put in place. Impact assessments are regularly conducted but their quality is poor. Regulation for budgetary impact assessment is in place but not followed comprehensively and adequately. The functioning of the quality control of impact assessments is not comprehensive, as it is in place only for the budgetary aspects.**

<sup>172</sup> The RoP of the Government contains only a very general provision (Article 28) that draft acts submitted to the OPM be reviewed by the unit responsible for the policy area in question. Article 20 states that all draft acts need to be consulted in conjunction with the MoF.

<sup>173</sup> As sample cases show, even the budgetary quality control by MoF is rarely effective. In the sample, its concerns and instructions were considered by the initiating ministry only in the case of the Draft Law on Prevention of Violence.

<sup>174</sup> Point conversion ranges: 0-2=0, 3-7=1, 8-12=2, 13-18=3, 19-23=4, 24-28=5.

***Principle 7: Policies and legislation are designed in an inclusive manner that enables the active participation of society and allows for co-ordination of different perspectives within the administration.***

Public consultation procedures are set by the LRLA and Governmental Rules of Organizing and Holding Public Consultations on Draft Normative Legal Acts (Rules of Public Consultations)<sup>175</sup>. The existing framework calls for mandatory consultations at the end of the policy-development process, after drafts have already been developed, which is very late in the process. According to the LRLA and the Rules of Public Consultation, public consultations are required for both laws and bylaws<sup>176</sup>. General advance notification on consultations is not required by regulation.

The executive bodies must publish drafts for consultation on an integrated website for publication of draft legal acts, administered by the MoJ<sup>177</sup>. The mandatory minimum duration for online public consultation is 15 days<sup>178</sup>. Other forms of consultation, such as public surveys, public meetings or meetings with interested parties, open hearings and discussions, are also provided for in the regulation, but they are not mandatory<sup>179</sup>. The “rationale for its adoption” must be published, along with the draft act<sup>180</sup>, as well as the “other materials as the drafting authority may determine”<sup>181</sup>. According to the RoP of the Government, the results of public discussions must be reported to the Government in the form of a summary note that includes an overview of comments received and a description of how they were included in the draft or, if not, what the reasons for not accepting it were<sup>182</sup>. In addition, the results must be published with the amended version of the draft act on the integrated website, within 15 days of the end of consultations<sup>183</sup>.

In addition to public consultation on normative acts, the legislation foresees two different mechanisms for consultations with stakeholders on key and strategic issues. The first one is the Public Council, envisaged by the Law on Public Council<sup>184</sup> and mandated to discuss or propose policies. This is the highest-level consultative body between the Government and civil society with 45 members, of which 15 are appointed by the Government. However, the Council is not functional, since its non-governmental members have not yet been elected. The other mechanisms for higher-level consultations are the ministerial advisory councils, based on a Government decision of 2015<sup>185</sup>, with a mixed composition, including non-governmental organisations and individuals.

In practice, online public consultations are not held consistently by all ministries. While two out of four sample ministries (the Ministry of Agriculture and the Ministry of Labour and Social Affairs) published all of their draft laws for consultation in 2017, the Ministry of Nature Protection published 86% of its drafts and the Ministry of Economic Development and Investments only 28%. Inconsistent practice is also confirmed by the analysis of the sample cases of the last five new draft laws from 2017. No evidence was provided for advance notification in any of the cases<sup>186</sup>, and only four drafts underwent mandatory

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<sup>175</sup> Rules of Organizing and Holding Public Consultations on Draft Normative Legal Acts, Government Decree No. 1 146-N of 10 October 2018 (Rules of Public Consultations).

<sup>176</sup> LRLA, Article 3; Rules of Public Consultations, Article 3.

<sup>177</sup> Rules of Public Consultations, Article 10: <https://www.e-draft.am/>.

<sup>178</sup> LRLA, Article 4.

<sup>179</sup> Rules of Public Consultations, Article 23.

<sup>180</sup> LRLA, Article 4.

<sup>181</sup> Rules of Public Consultations, Article 12.

<sup>182</sup> RoP, Article 16 (5).

<sup>183</sup> LRLA, Article 4, and Rules of Public Consultations, Article 21.

<sup>184</sup> Law on Public Council, HO-144-N of 7 March 2018.

<sup>185</sup> Governmental Decree No. 52-N of 26 November 2015.

<sup>186</sup> However, in the case of the Law on Inter-Community Unions, we can assume that the advance notification in the form of invitation was provided, since consultations were conducted in the form of live meetings.

written online consultation<sup>187</sup> and comments were submitted only in three cases<sup>188</sup>. However, in none of these three cases was reporting consistent<sup>189</sup>. Forms of consultation other than written consultation were used in three cases and involved organisation of different working meetings<sup>190</sup>. The requirements for minimum duration<sup>191</sup> and consultation materials were followed in four cases but not in the fifth case, where the draft law was consulted only in three public meetings<sup>192</sup>.

The LRLA envisages that any drafts for which no public consultation was organised may be rejected by the Government<sup>193</sup>. While this provision is rather general, the new Rules of Public Consultations further stipulate that the MoJ is to conduct oversight and quality control of consultations<sup>194</sup>. The MoJ must monitor consultations organised at the integrated website and respond if the rules are violated. The MoJ also serves as an appeals body for the public, while public authorities need to respond to its enquiries or appeals of the public within five days. Before the adoption of the new Rules of Public Consultations, no institution was directly mandated to provide oversight of this aspect. However, the OPM has a general mandate to review the policy-development work of the ministries and can “return draft legal acts, on the assignment of the Prime Minister, to the person bringing the issue, if they are not in line with the legislation or other rules, this Rules of Procedure, the Government Programme or the key internal and external policy areas of the government”<sup>195</sup>. Information provided during the assessment indicates that the OPM occasionally checked whether public consultations were implemented, but it did not regularly and systematically act as the gatekeeper<sup>196</sup>.

The RoP of the Government define the requirements for inter-institutional consultations. They are required to last for five working days, “except for cases when RIA is conducted, which should be done within the timeline specified by the legislation”<sup>197</sup>. In addition, the MoJ has 15 working days for state

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<sup>187</sup> There is no evidence of online consultations for the Draft Law on Inter-Community Unions. Since the sample cases were from 2017 and the regulation on public consultations was partly revised in 2018, they were tested against requirements in force in 2017. However, the old rules also required written online consultations on: [www.e-draft.am](http://www.e-draft.am) (Rules for Organizing and Holding Public Consultations on Draft Normative Legal Acts, Decision of the Government No. 296-N of 25 March 2010, Article 8).

<sup>188</sup> Draft Law on Prevention of Violence within the Family, Draft Law on Television and Radio and Draft Law on Inter-Community Unions.

<sup>189</sup> In the case of the Draft Law on Inter-Community Unions a report was not prepared, while in the case of the Draft Law on Prevention of Violence within the Family and the Draft Law on Television and Radio the reports did not include any information about comments and proposal received from stakeholders at the public/working meetings, but only about feedback through written consultations.

<sup>190</sup> The Draft Law on Prevention of Violence within the Family, the Draft Law on Television and Radio and the Draft Law on Inter-Community Unions.

<sup>191</sup> In this case as well, the requirement, i.e. the duration of public consultations, was tested against the regulation in force in 2017. It was, however, the same as in the new regulation: a minimum of 15 days (Law on Legal Acts, Article 27.1, paragraph 4). Online consultations lasted 20 days for the Draft Law on Pardon, 15 days for the Draft Law on Television and Radio, 20 days for the Draft Law on Prevention of Violence within the Family and 30 days for the Draft Law on the Constitutional Court.

<sup>192</sup> See <http://cfoa.am/archives/1317>. Even though the responsible authority reports that comments and proposals were received during these meetings, they were not reported publicly, or to the Government. In this case, there is also no information available on any consultation materials provided to stakeholders.

<sup>193</sup> LRLA, Article 4 (5).

<sup>194</sup> Rules of Public Consultations, Articles 15 and 16.

<sup>195</sup> RoP of the Government, Article 33.

<sup>196</sup> The documentation provided includes cases where public consultation reports are missing, but the OPM did not raise any concerns nor return the draft and demand that public consultations be conducted. For example, the Draft Law on Inter-Community Unions did not include a report on public consultations and the OPM did not request an additional document, while in the case of the Draft Law on Car and Vehicle Roads, the OPM demanded that the Ministry of Transport submit the report on public consultations. In the case of the Law on Road Traffic Safety, the Head of Staff of the OPM demanded that the Ministry of Transport implement public consultations.

<sup>197</sup> RoP of the Government, Article 21. The timeline for RIA is not specified, however, since the Governmental rules on RIA have not yet been adopted.

legal expert review (with extra ten days for more complex laws)<sup>198</sup>. All affected institutions must be consulted and the obligation to consult the MoJ and the MoF is specifically mentioned<sup>199</sup>. All other bodies, including the MoF, can approve the draft without responding<sup>200</sup> but the legal expert review by the MoJ is mandatory<sup>201</sup>. However, according to the LRLA, secondary regulation may be adopted if the MoJ fails to provide its opinion within the stipulated deadline<sup>202</sup>.

The proposing body is required to inform the Government of the outcome of inter-institutional consultation, in the form of a summary note on the comments and recommendations received, with information detailing whether they were accepted or not and an explanation of the reasons for not accepting them<sup>203</sup>. The RoP provides for special consultative meetings convened by the Prime Minister or the Deputy Prime Minister concerned, or by the Chief of Staff or Head of the responsible OPM policy department, as a mechanism for administrative-level co-ordination and conflict resolution<sup>204</sup>. The remaining differences of opinions are dealt with at the political level by the Government Committees.

Analysis of the sample draft laws indicates that inter-institutional consultations take place consistently, including consultations with the OPM, the MoF, the MoJ and all affected institutions. A table containing an overview of the comments received and how the proposing ministry addressed them accompanies drafts submitted to the OPM for decision. In all five sample cases, the minimum duration requirement<sup>205</sup> was respected but, according to the information provided, there are occasionally cases when ministries are given less time for their opinion than is required<sup>206</sup>.

With the exception of requiring prior notification to be provided to the affected parties, the regulatory framework for public consultation is comprehensive and in place. However, application practice and quality assurance are inconsistent. As a result, the value of the indicator measuring public consultation on public policy is 3.

Inter-institutional consultation is a regular practice, minimum deadlines are set and respected, all key stakeholders are consulted, and a conflict-resolution mechanism is established. The value of the indicator measuring inter-institutional consultation on public policy is thus 5.

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<sup>198</sup> LRLA, Article 6.

<sup>199</sup> RoP of the Government, Article 20.

<sup>200</sup> *Idem*, Article 25.

<sup>201</sup> LRLA, Article 6.

<sup>202</sup> *Ibid.*

<sup>203</sup> RoP of the Government, Article 16 (5).

<sup>204</sup> *Idem*, Article 32. The functioning of such conflict-resolution mechanisms is demonstrated by the OPM in the cases of the Law on Tax Liability and the Law on Food Safety, where the OPM Chief of Staff convened such meetings.

<sup>205</sup> Since the sample cases were from 2017, the duration of consultations was tested against the regulation then in force. It gave institutions five days to reply (Decree of the President of the RA No. RA-52-N on Activity of the Government of the Republic of Armenia of 8 April 2004, Article 18) and 15 days if they were to conduct an RIA (Law on Legal Acts, Article 27.1).

<sup>206</sup> For example, on the instruction of the PM, in October 2018, the MoJ requested that other ministries submit their feedback to the Draft Law on Making Amendments and Addenda to the Constitutional Law of the Republic of Armenia on the Electoral Code of the Republic of Armenia.

Public consultation on public policy						
This indicator measures the implementation of public consultation processes in developing policies and legislation. It assesses the regulatory framework, the establishment of the quality control function on public consultation and the consistency in publishing draft laws for written public consultation online, and tests whether minimum standards for public consultations were upheld for approved draft laws.						
Overall indicator value	0	1	2	<b>3</b>	4	5

Sub-indicators	Points
1. Adequacy of the regulatory framework for an effective public consultation process	9/10
2. Quality assurance of the public consultation process	1/3
3. Consistency in public consultation	1/4
4. Test of public consultation practices	10/24
<b>Total<sup>207</sup></b>	<b>21/41</b>

Inter-institutional consultation on public policy						
This indicator measures the adequacy of the regulatory framework for the inter-institutional consultation process and tests the system in practice for five draft laws.						
Overall indicator value	0	1	2	3	4	<b>5</b>

Sub-indicators	Points
1. Adequacy of the regulatory framework for an effective inter-institutional consultation process	9/9
2. Test of inter-institutional consultation practices	12/12
<b>Total<sup>208</sup></b>	<b>21/21</b>

The legal framework for public consultation is established and the scope, minimum deadlines and different forms of public consultation are defined. The outcomes of written consultations are published and submitted to the Government. However, the practice of public consultation and its quality assurance is inconsistent. Inter-institutional consultation is performed consistently and generally follows the required deadline. Mechanisms for conflict resolution are also in place.

<sup>207</sup> Point conversion ranges: 0-6=0, 7-13=1, 14-20=2, 21-27=3, 28-34=4, 35-41=5.

<sup>208</sup> Point conversion ranges: 0-2=0, 3-6=1, 7-10=2, 11-14=3, 15-18=4, 19-21=5.

***Principle 8: Legislation is consistent in structure, style and language; legal drafting requirements are applied consistently across ministries; legislation is made publicly available.***

The MoJ conducts the “mandatory state legal expert review”, as the task of scrutinising the legal quality of regulation is officially called for in the LRLA<sup>209</sup>. In addition, the legal quality of drafts is also checked by the OPM<sup>210</sup>, resulting in a partial overlap of their roles. Sub-regulation may not be adopted if the MoJ issues a negative opinion, unless the Prime Minister overrules its opinion<sup>211</sup>. If the MoJ finds that the adopted sub-legislative act is not in line with the Constitution or LRLA, it must file in court to invalidate it<sup>212</sup>. Guidance on legal drafting is provided by four special chapters<sup>213</sup> of the LRLA that are available online and provide comprehensive instructions on legal drafting. On the other hand, training on legal drafting is not systematically organised.

Analysis of five legislative packages adopted by the Government in 2017<sup>214</sup> indicates that MoJ provides legal scrutiny consistently and on time. On the other hand, it is less consistent and systematic in the case of the laws it initiates itself. A comprehensive written legal review was not conducted for any of the seven in-house draft laws analysed during this assessment<sup>215</sup>. However, some examples of the opinions written by the MoJ Agency for Expert Legal Review for other in-house laws<sup>216</sup> were submitted during the assessment.

The Parliament adopted 15 new laws that are not amendments to existing laws in 2016. None of them was amended within a year of its adoption. However, a sample of three laws that came into force at the end of 2017 and the beginning of 2018<sup>217</sup> showed that out of 27 mandatory bylaws provided by the legislation, the Government adopted only eight (29%) within the set time. This reflects negatively on the consistency and clarity of the legal framework. The practice of ensuring the implementation of new legislation also contributes to it, as laws generally come into force ten days after their publication. Often, in their transitional provisions, they establish a later deadline for the adoption of the bylaws arising from the new law<sup>218</sup>. In addition, based on a Government decision<sup>219</sup>, the Minister in charge of the implementation of a new law is obligated to develop a Prime Ministerial Decree 20 days after the promulgation of the new law, listing the necessary steps for implementation, including the list of secondary legislation that needs to be developed and adopted.

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<sup>209</sup> LRLA, Articles 6-8.

<sup>210</sup> RoP of the Government, Article 28.

<sup>211</sup> LRLA, Article 8.

<sup>212</sup> *Ibid.*

<sup>213</sup> LRLA, Chapter 4-8.

<sup>214</sup> Amendments to the Criminal Code and Criminal Proceeding Code and draft of the Law on Pardon of the Republic of Armenia, Government session of 28 December 2018, agenda item No. 38; Amendments to the Law on Waste, Law on Garbage and Sanitary Cleaning and to the Administrative Code of the Republic of Armenia, Government session of 28 December 2018, agenda item No. 43; Amendments to the Civil Code and the Law on Brands of the Republic of Armenia, Government session of 14 December 2018, agenda item No. 50; Amendments to the Law on Holidays and Commemoration Days of the Republic of Armenia, Government session of 28 December 2018, agenda item No. 37; Draft Law on Inter-Community Unions of the Republic of Armenia, Government session of 16 December 2017, agenda item No. 18.

<sup>215</sup> Draft Law on Pardon; Draft Law On Prevention of Violence within the Family; Draft Constitutional Law on Constitutional Court; Draft Law on Television and Radio; Draft Package of Amendments to the Electoral Law, the Administrative Code, Law on Referendum and the Criminal Code; Draft Amendments to the Criminal Code and Criminal Proceedings Code; Draft Law on Amendments and Additions to the RA Civil Code and the Law on Making Amendments and Additions to the Law of the Republic of Armenia on Trademarks.

<sup>216</sup> For example, the Draft Law on State Registration of Legal Entities, Separate Subdivisions of Legal Entities, Institutions and Individual Entrepreneurs.

<sup>217</sup> Law of the Republic of Armenia on the Status of the Military Service and Servicemen of 15 November 2017; Law on Architectural Activity of 6 December 2017; Law on Procurement of 16 December 2016.

<sup>218</sup> For example, in the case of the Law on Status of Military Service and Servicemen, Article 73, paragraph 10 sets six months as the deadline for the adoption of secondary legislation arising from the legal provisions of the Law.

<sup>219</sup> Government Decision No. 541-N of 8 April 2004.

According to a survey<sup>220</sup>, 53% of Armenian businesses consider government policy making to be clear and reliable.

Under the LRLA, new procedures for the publication of legislation were adopted. The Law stipulates that all regulatory legal acts are officially promulgated when they are published on the integrated website for promulgation of the regulatory legal acts (central web register)<sup>221</sup>. However, the new regime for online/electronic promulgation will enter into force only on 1 July 2019. Until then, regulatory legal acts are promulgated upon publication in the Official Bulletin(s). At the same time, they are also required to be published on the central (online) web register, in line with the procedure described. According to the regulation in force, the adopting body must send the new legislation within seven days<sup>222</sup> to the MoJ, which has two working days to publish it in consolidated form<sup>223</sup>. Internal legal acts<sup>224</sup>, however, are required to be published only on the official website of the adopting body. If the adopting body has no official website, they are required to be posted in a place visible and accessible to those individuals to whom the act is addressed<sup>225</sup>.

In practice, all primary and secondary legislation is available online and free of charge, but the web register maintained by the MoJ is not fully up to date and consistent. The analysis showed that there are examples of Government decrees that have been annulled, but are still listed as valid in the register<sup>226</sup>. The consolidation of secondary legislation is thus not comprehensively ensured. According to a survey<sup>227</sup> of businesses, 61% of respondents believe that information on the laws and regulations affecting their business is easy to obtain from the authorities.

While the legal drafting guidance and quality assurance is comprehensive, due to the delays in adoption of bylaws, the value of the indicator measuring predictability and consistency of legislation is 4.

The regulatory framework for publishing regulation is well established, and all primary and secondary legislation is available free of charge through the central registry in consolidated format. The central register is, however, not fully up to date and consistent. Hence, the value of the indicator measuring accessibility of legislation is 4.

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<sup>220</sup> SIGMA-commissioned survey of businesses, conducted in October 2018.

<sup>221</sup> LRLA, Article 25.

<sup>222</sup> Order of the Minister of Justice No. 180-N on Official Publication of Normative Legal Acts of 7 May 2018, Article 2.

<sup>223</sup> LRLA, Article 25 (3).

<sup>224</sup> As defined by Article 2 of the LRLA, an internal legal act is “a legal act adopted based on a regulatory legal act and in accordance thereto, which defines rules for conduct for the group of persons that are in working or administrative relations with the body adopting it or are using the services or works of the body that adopted it”.

<sup>225</sup> LRLA, Article 23 (7).

<sup>226</sup> The following examples were found: Decree No. 1 021-N of 10 September 2009; Decree No. 1 205-N of 22 October 2009; Decree No. 1 237-N of 29 2009; Decree No. 1 159-N of 15 October 15 2009; Decree No. 921-N of 13 August 2009; Decree No. 1 104-N of 23 September 2009; Decree No. 18-N of 18 January 2010; Decree No. 296-N of 25 March 2010.

<sup>227</sup> SIGMA-commissioned survey of businesses, conducted in October 2018.

### Predictability and consistency of legislation

This indicator measures the predictability and consistency of legislation. It assesses the availability of training and guidance along with the establishment of the quality control function. The consistency of laws is assessed based on the ratio of laws amended one year after adoption, and predictability is assessed through the perceived consistency of interpretation of business regulations.

Overall indicator value	0	1	2	3	<b>4</b>	5
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Sub-indicators	Points
1. Availability of guidance documents on legal drafting	2/2
2. Quality assurance on legal drafting	3/3
3. Laws amended one year after adoption (%)	3/3
4. Perceived clarity and stability of government policy making by businesses (%)	1/2
5. Timeliness of adoption of mandatory bylaws (%)	0/3
<b>Total<sup>228</sup></b>	<b>9/13</b>

### Accessibility of legislation

This indicator measures both the regulatory framework for making legislation publicly available and the accessibility of legislation in practice, based on the review of the availability of legislation through the central registry and as perceived by businesses.

Overall indicator value	0	1	2	3	<b>4</b>	5
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Sub-indicators	Points
1. Adequacy of the regulatory framework for public accessibility of legislation	6/6
2. Accessibility of primary and secondary legislation in practice	5/8
3. Perceived availability of laws and regulations affecting businesses (%)	1/2
<b>Total<sup>229</sup></b>	<b>12/16</b>

The mechanism for ensuring the quality of legislation is in place. The legislation is not subject to frequent changes. All primary and secondary legislation is available online, free of charge, but the central web register is not fully consistent. Bylaws that have been annulled appear to be in force, and the registry is not fully comprehensive, as internal legal acts of ministries are published only on their individual websites. Businesses' perception of the clarity and stability of the legal framework and on the availability of laws is moderate.

<sup>228</sup> Point conversion ranges: 0-2=0, 3-4=1, 5-6=2, 7-8=3, 9-10=4, 11-13=5.

<sup>229</sup> Point conversion ranges: 0-2=0, 3-5=1, 6-8=2, 9-11=3, 12-14=4, 15-16=5.

**Key recommendations**

**Short-term (1-2 years)**

- 1) The Government should adopt the detailed regulation for RIA, including detailed guidelines. The RIA process should be embedded in the policy-development process of ministries, starting in the early stages of policy formulation.
- 2) Quality assurance for impact assessments should be comprehensively carried out by the OPM, the MoF and any other body mandated as quality controllers.
- 3) The MoJ and the OPM should consistently ensure the adherence to the rules of public consultation to ensure that consultations are organised consistently and proactively and that reports published and submitted to the Government and the public are comprehensive and include information on all consultative activities, regardless of their form.
- 4) The MoJ should keep the central register of legislation up to date and fully consistent with the regulation in force.
- 5) The Government should ensure that the implementation of new laws is accompanied by the timely development and adoption of all sub-legislative acts envisaged in the legislation.

**Medium-term (3-5 years)**

- 6) The Government should ensure that the capacity of the administration in the ministries is continuously developed, to conduct broad and comprehensive RIAs, genuine public consultations, as well as legal drafting of a high standard.

3

## Public Service and Human Resource Management

## PUBLIC SERVICE AND HUMAN RESOURCE MANAGEMENT

### 1. STATE OF PLAY AND MAIN DEVELOPMENTS: JANUARY 2017 – DECEMBER 2018

#### 1.1. State of play

The new Law on Civil Service (CSL) 2018<sup>230</sup> has significantly expanded the scope of the civil service. However, some special groups of public servants (e.g. in tax, customs and law enforcement bodies) are still excluded. The Law on Public Service (PSL) 2018<sup>231</sup> establishes common principles for the entire public service, as well as a clear distinction between political and professional positions.

Political responsibility for public service and civil service policy has been established under the Prime Minister (PM), the First Deputy Prime Minister (DPM) and the Government. The Civil Service Office (CSO) replaced the Civil Service Council (CSC) as the central co-ordination body, with competence focused on formulation of public service and civil service policy (including remuneration policies) and on guidance, analysis and monitoring to ensure effective implementation. Some human resource management (HRM) competence is transferred to the ministries and other public bodies. As major changes are planned for the human resource management information system (HRMIS), development of the previous system has been halted.

The CSL 2018 explicitly includes the principle of merit and establishes competitions as the only avenue to access the civil service and promotions. However, the selection committees to fill senior civil service vacancies include political appointees or their representatives.

The salary structure established in the Law on the Remuneration of State Officials and Public Servants (LRSOPS)<sup>232</sup> is clear and based on job classifications. But insufficient regulation of the methods and criteria for job classification hinders fair allocation of base salaries<sup>233</sup>. Although bonuses are formally to be awarded based on performance, almost all civil servants receive them. There is no public disclosure of salaries.

The new institutional and legislative framework to promote integrity and prevent corruption, adopted in 2017 and 2018, covers the whole public service and provides for adequate institutions and tools. However, implementation, including the creation of the new Corruption Prevention Commission (CPC), has not yet begun.

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<sup>230</sup> Law HO-205-N on Civil Service, 23 March 2018.

<sup>231</sup> Law HO-206-N on Public Service, 23 March 2018.

<sup>232</sup> Law HO-209-N, 23 March 2018, on amending the Law on the Remuneration of State Officials and Public Servants.

<sup>233</sup> Relevant secondary legislation was introduced after the data collection cut-off date of 31 December 2018.

## 1.2. Main developments

The CSL 2018 and PSL 2018 were adopted in March 2018 and entered into force on 1 July of the same year. The LRSOPS was amended in March 2018. The Law on the Regulation of Administrative Legal Relations, which includes some provisions on the reorganisation and restructuring of public bodies, was also adopted in 2018<sup>234</sup>.

In 2016 and 2017, following some amendments to the CSL 2001<sup>235</sup>, some important pieces of secondary legislation were adopted dealing with the organisation of competitions for entry-level civil service positions<sup>236</sup>, senior civil service vacancies<sup>237</sup> and other civil service positions<sup>238</sup>.

Most of the secondary legislation of the CSL 2018 and PSL 2018 was introduced by the end of 2018 with some in the beginning of 2019.

Monitoring reports on the implementation of the Civil Service Reform Strategy 2015-2018 are not available, and the preparation of a new strategy has not begun.

The Law on the Corruption Prevention Commission (LCPC) was adopted on 9 June 2017<sup>239</sup>, jointly with the Law on Whistle-Blowers Protection (LWP)<sup>240</sup>. The CPC will replace the existing Commission on Ethics of High-Ranking Officials (CEHRO). In 2017, administrative sanctions<sup>241</sup> were introduced in respect of violations of the regulations on asset declarations (late and/or false submissions, etc.), as well as criminal sanctions for deliberate non-submission of assets' declarations, concealment of data or inclusion of false data<sup>242</sup>. In the same year, the CEHRO was empowered to institute administrative proceedings within its domains of competence, through amendments introduced in the PSL 2011<sup>243</sup>.

A monitoring report on implementation in 2017 of the Anti-corruption Strategy 2015-2018 shows that a high proportion of activities were executed. The preparation of a new strategy awaits the creation of the CPC.

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<sup>234</sup> Law HO-207-N on the Regulation of Administrative Legal Relations, 23 March 2018.

<sup>235</sup> CSL, 4 December 2001, amended by Law HO-104-N of 21 June 2014 to Amend and Supplement the CSL. These amendments entered into force on 1 January 2017.

<sup>236</sup> Decision of the CSC No. 994-N, 1 December 2016, amending Decision No. 818-N of 12 October 2010 on Prescribing the Procedure for Holding Testing to Obtain a Certificate to Fill a Junior Civil Service Position and for Filling a Vacant Junior Civil Service Position.

<sup>237</sup> Decision of the CSC No. 74-N of 2 February 2017, amending Decision No. 19-N, 14 June 2012, on Approving the Working Procedure for Competition Commissions Holding Competitions for Filling Vacant Higher and Chief Civil Service Positions.

<sup>238</sup> Decision of the CSC No. 770-N, 11 October 2017, amending Decision No. 17-N, 13 June 2002, on Prescribing the Procedure for Holding a Competition for Filling a Vacant Civil Service Position.

<sup>239</sup> Law HO-96-N on the CPC, 9 June 2017.

<sup>240</sup> Law HO-97-N on the System of Whistle-Blowing, 9 June 2017.

<sup>241</sup> Law HO-106-N on Amendments to the Code of Administrative Offences, 9 June 2017, Article 169.28.

<sup>242</sup> Law HO-102-N on Amending and Supplementing the Criminal Code of the Republic of Armenia, 9 June 2017, Articles 4 and 5, amending the Articles 314.2 and 314.3 of the Criminal Code.

<sup>243</sup> Law HO-172-N on Public Service, 26 May 2011, amended by Law HO-98, 9 June 2017, on Amending and supplementing the PSL.

## 2. ANALYSIS

This analysis covers six Principles for the public service and human resource management area, grouped under two key requirements. It includes a summary analysis of the indicator(s) used to assess against each Principle, including sub-indicators<sup>244</sup>, and an assessment of the state of play for each Principle. For each key requirement, short- and medium-term recommendations are presented.

### Policy, legal and institutional frameworks for public service

**Key requirement: The scope of the public service is clearly defined and applied in practice so that the policy and legal frameworks and institutional set-up for a professional public service are in place.**

The values of the indicators assessing Armenia's performance under this key requirement are displayed below.

Indicators	0	1	2	3	4	5
Adequacy of the policy, legal framework and institutional set-up for professional human resource management in public service		◆				
Adequacy of the scope of public service			◆			

Legend: ◆ Indicator value

### Analysis of Principles

**Principle 1: The policy and legal frameworks for a professional and coherent public service are established and applied in practice; the institutional set-up enables consistent and effective human resource management practices across the public service.**

The CSL 2018 establishes the Government, the PM and the First DPM as the political authorities for the civil service<sup>245</sup>. The First DPM is a member of the Cabinet and, as such, participates regularly in the Government sessions<sup>246</sup>. According to the CSL 2018, the conditions and procedures relating to the exercise of rights of civil servants are to be adopted by the Government, while specific HRM procedures are to be adopted by the First DPM.

The CSL 2018 creates the CSO<sup>247</sup> as the central co-ordination unit for the civil service. The CSO took over the functions of the CSC established in the CSL 2001 and is accountable to the First DPM, the PM and the Government. The competence vested in the CSO by the CSL 2018 involves a greater emphasis on policy formulation and monitoring, while some important HRM functions, particularly regarding organisation of recruitment, training and disciplinary procedures are decentralised to the HRM units within the civil service bodies. The CSO retains the competence of the CSC to develop relevant draft acts, which is now extended to the whole public service<sup>248</sup>. While the CSC could adopt secondary legislation, the CSO must

<sup>244</sup> OECD (2018), *Methodological Framework for the Principles of Public Administration: ENP Countries*, OECD, Paris, <http://www.sigmaweb.org/publications/Methodological-Framework-for-the-Principles-of-Public-Administration-ENP-Countries-May-2018.pdf>. This methodology is a further developed detailed specification of indicators used to measure the state of play against the Principles of Public Administration.

<sup>245</sup> CSL 2018, Article 3.

<sup>246</sup> Law on the Government Structure and Activity of 23 March 2018, Articles 2 and 10.

<sup>247</sup> CSL 2018, Article 38.

<sup>248</sup> CSL 2018, Article 38.3.2.

submit drafts to the relevant political authority (PM, Government or First DPM). Despite this technical role in the formulation of public service and civil service policy, the head of the CSO is not a civil servant, but rather a political appointee<sup>249</sup>, as was the case in the CSC<sup>250</sup>. On the other hand, the CSL 2018 accords the CSO the competence to develop remuneration policy in state bodies<sup>251</sup>, and the CSO retains the right to receive the necessary information connected with the civil service from public bodies.

The Civil Service Reform Strategy 2015-2018, adopted in 2015, encompasses the whole civil service. The document has several significant flaws: the analysis of the situation of the civil service on which to base reform goals is insufficient; objectives, activities and targets are formulated in a general and formalistic manner; and the budget is not included for most activities. There is no evidence of regular monitoring reports on implementation of the Strategy, and preparation of a new strategy has not begun.

The basic pieces of legislation regulating the public service and the civil service are the PSL 2018, the CSL 2018, the LRSOPS<sup>252</sup>, the Law on the Regulation of Administrative Legal Relations<sup>253</sup> and the Labour Code<sup>254</sup>. In addition, the LCPC establishes the overall institutional framework to promote integrity and fight against corruption in the public service. Other pieces of legislation complement this main legislative core on specific aspects<sup>255</sup>. Most of the acts regarding implementation were adopted at the end of 2018 and some in the beginning 2019, although the CSL 2018 had already been in force for several months.

The balance between the primary and the secondary civil service is inadequate in some areas. For instance, the establishment of only two broad professional groups of civil servants (leading and professional civil service positions)<sup>256</sup> leaves too much discretion for the secondary legislation in defining the structure of the civil service.

Another imbalance between the primary and the secondary legislation has to do with regulation of disciplinary procedures, as the Law does not include a list of offences or of the basic rights of civil servants who are under investigation. Moreover, the regulation of reorganisation and restructuring procedures in the CSL 2018 and the Law on Regulation of Administrative Relations is not sufficiently precise, given that these procedures may lead to dismissal from the position and/or termination of employment. Only the decision-making body is mentioned in the Law<sup>257</sup>. There is no reference to the technical body responsible for preparing and validating the proposals. This does not ensure the application of objective technical criteria.

The CSL 2001 envisaged the possibility of filing an administrative appeal only in cases of disagreement with the results of competitions and the attestation process<sup>258</sup>. The CSL 2018 improves such regulations by adding the right to an administrative appeal in cases of disagreement with the result of individual performance evaluations<sup>259</sup>, disciplinary decisions and decisions leading to dismissal from a position or to termination of employment in the civil service<sup>260</sup>. The right to appeal to the courts is established by the CSL 2018 in the latter three cases, as well as for recruitment and promotion<sup>261</sup>. Therefore, it is not

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<sup>249</sup> PSL 2018, Article 6.4.

<sup>250</sup> CSL 2001, Article 38, and PSL 2011, Articles 4. 8 and 4.10.

<sup>251</sup> CSL 2018, Article 38, point 3(4).

<sup>252</sup> Law HO-157-N on Remuneration for Persons Holding State Positions of 12 December 2013, amended on 9 June 2017.

<sup>253</sup> Law HO-207-N on the Regulation of Administrative Legal Relations, 23 March 2018

<sup>254</sup> Labour Code, 14 December 2004, No. ZR-124.

<sup>255</sup> This is the case for the Law on the Regulation of Administrative Legal Relations, 23 March 2018, (which includes provisions on the reorganisation and restructuring of public bodies) and the Penal Code, among others.

<sup>256</sup> CSL 2018, Article 6.

<sup>257</sup> *Idem*, Articles 23.2 and 23.3.

<sup>258</sup> *Idem*, Articles 14.9.1 and 19.13.

<sup>259</sup> *Idem*, Article 18.

<sup>260</sup> CSL 2018, Article 21.11.

<sup>261</sup> *Idem*, Article 10.21.

clear whether civil servants can appeal to the courts in cases of disagreement with the results of competitions, performance appraisals<sup>262</sup> or decisions on horizontal transfers.

The analysis of five sample organisations<sup>263</sup> shows that HRM units have three to six staff and focus mainly on personnel administration. In the sample, just one unit provides managers of the institution with regular reports containing quantitative data on human resources (HR). Multi-annual basic staff forecasts are prepared through the budgeting process and are linked to the elaboration of medium-term expenditure frameworks. But proper staff planning is not yet in place. None of the sample organisations had prepared staff plans. The heads of HRM units report to the Secretary General or equivalent position in each institution. In each case but one, staff of the HRM units participated in related training during 2017. However, in only two cases did HRM staff participate in the activities of the HRM professional network<sup>264</sup>.

The availability of analytical data on the civil service and the public service is very limited. Annual activity reports prepared by the CSC for 2016 and 2017 consist only of lists of activities carried out, along with some basic statistical data. There are no conclusions on results achieved or recommendations for the next term.

The CSO is preparing a concept document on a new HRMIS and so the existing information technology (IT) platform is not being adapted to the new legislation. Until the new system is operational, this will limit the CSO's capacity to analyse civil service-related data centrally. This situation is incompatible with the provisions on electronic management of some HRM data required in the CSL 2018, particularly those affecting recruitment. Having only a limited amount of HRM data available may negatively affect planning of certain reform-related activities. HRM units are using the old central information platform, although there is no connection to the CSO since the introduction of the CSL 2018. The database does not include data on previous positions held by civil servants, salary information or the results of the individual performance assessments. Two organisations have developed their own parallel HRM databases<sup>265</sup>. The existing IT platform does not interoperate with the payroll information system. Instead, updated lists of staff are prepared monthly by HRM units and sent to the Ministry of Finance (MoF) through the accounting department of each body.

Considering the factors analysed above, the value for the indicator on the adequacy of the policy, legal framework and institutional set-up for professional human resource management in public service is 1.

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<sup>262</sup> *Idem*, Article 21.16.

<sup>263</sup> Ministry of Economic Development and Investments, Ministry of Labour and Social Affairs, State Committee of Real Property Cadastre, Social Security Service and Statistical Committee.

<sup>264</sup> Ministry of Labour and Social Affairs and State Social Security Service.

<sup>265</sup> *Ditto*.

### Adequacy of the policy, legal framework and institutional set up for professional human resource management in public service

This indicator measures the extent to which the policy, legal framework and institutional capacities are in place and enable consistent human resource management (HRM) practices across the public service, and assesses whether policies and laws are implemented to ensure proper management of the civil service, for example a functioning civil service database, availability and use of data, etc.

Overall indicator value 0    **1**    2    3    4    5

Sub-indicators	Points
1. Establishment of political responsibility for the civil service	2/2
2. Quality of public service policy documents	1/4
3. Implementation and monitoring of public service policy	0/4
4. Right balance between primary and secondary legislation	0/2
5. Right to appeal decisions on employment in the civil service	2.5/4
6. Existence of a central, capable co-ordination body	2/4
7. Professionalism of HRM units in civil service bodies	1/2
8. Existence of a functional HR database with data on the civil service	0/4
9. Availability and use of data on the civil service	1/5
<b>Total<sup>266</sup></b>	<b>9.5/31</b>

The CSL 2018 places the political responsibility for the civil service on the PM, a DPM and the Government. The CSC has been replaced by the CSO, which has enhanced competence on policy formulation and monitoring, including on remuneration policy, while some important HRM functions are decentralised to HRM units. However, data for HR analysis and planning is scarce, and improvements in this respect are challenged by the current lack of centralised management of the HRMIS while development of the new IT platform is only at the stage of conceptualisation.

#### *Principle 2: The scope of public service is adequate, clearly defined and applied in practice.*

The horizontal scope<sup>267</sup> established in the CSL 2018<sup>268</sup> is wider and clearer than it was in the CSL 2001<sup>269</sup>. Under the 2018 Law, the scope includes not only the staff of the President, the Government, the ministries, public bodies subordinated to the ministries and the regional governors' offices (*Marzpetarans*), but also professional staff of the Assembly, judicial bodies (except judges), the Office of the Prime Minister (OPM), the Prosecutor's Office (except prosecutors), investigative bodies, independent state bodies, autonomous bodies and the staff of the Ombudsman and the Audit Chamber (AC), although exceptions are allowed through special legislation. According to the sample data, at the end of 2017, the proportion of civil servants among the total number of employees was high in ministries

<sup>266</sup> Point conversion ranges: 0-5=0, 6-10=1, 11-15=2, 16-20=3, 21-25=4, 26-31=5.

<sup>267</sup> In OECD (2016), *The Principles of Public Administration: A Framework for ENP Countries*, OECD, Paris, p. 23, SIGMA provides its definition of the horizontal scope of public service: 1) ministries and administrative bodies reporting directly to the central government, the prime minister or ministers (i.e. the civil service, strictly speaking); 2) administrations of the parliament and the head of the state; and 3) constitutional and other independent bodies not reporting to the government. The scope of public service thus does not cover institutions at the level of the sub national administration and special types of public service, elected and politically appointed officials, or support and ancillary personnel in the administrative bodies, <http://www.sigmaweb.org/publications/Principles-ENP-Eng.pdf>.

<sup>268</sup> CSL 2018, Article 2.

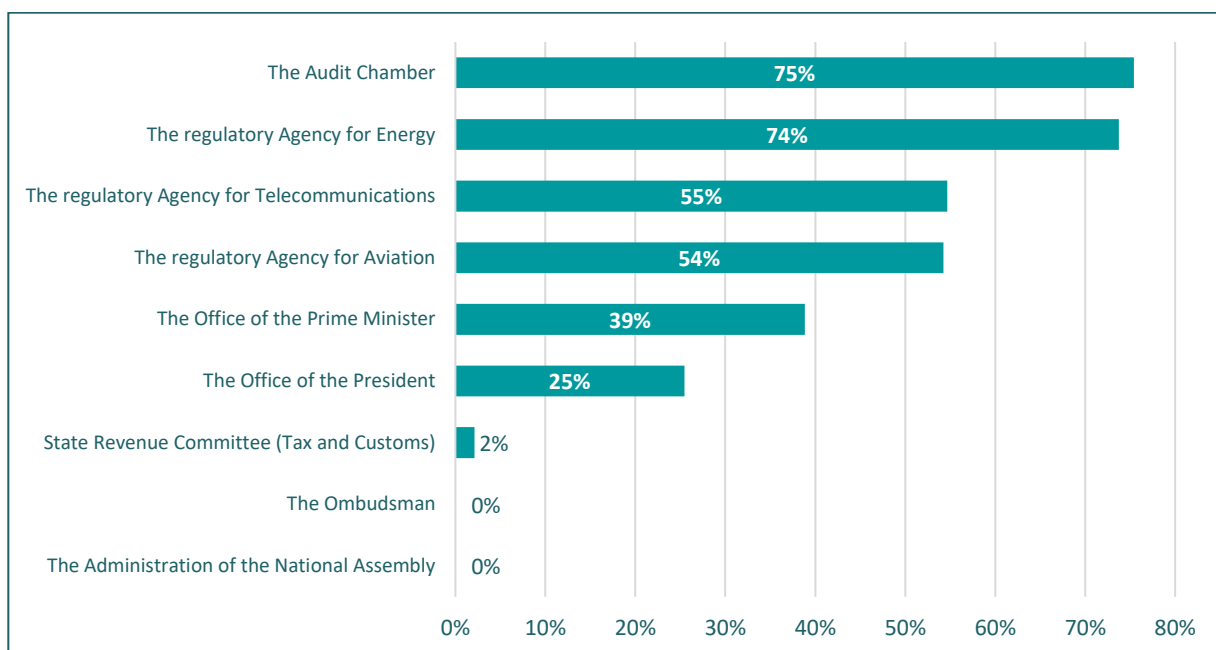
<sup>269</sup> CSL 2001, Article 4.

and the public bodies subordinated to them<sup>270</sup>, while it varied greatly in other public institutions (Figure 1). This is consistent with the limited scope of the civil service under the CSL 2001. In the public service in general, the latest data shows that 18% of employees had civil servant status<sup>271</sup>.

However, the status of some specific groups of public servants is unclear, due to the lack of coherence between some provisions of the CSL 2018 and the PSL 2018. The CSL 2018 seems to include in the civil service some groups of state servants, even if they may be also subject to special legislation. Such groups include police officers, the rescue service, the penitentiary service, law enforcement officers, the diplomatic service, positions of investigative or intelligence services, the customs service, positions with intelligence functions within the tax administration, judicial bailiffs and other judicial support staff<sup>272</sup>. However, the PSL 2018 treats the civil service as a separate category from special services<sup>273</sup>.

As stated in the Accountability chapter, private law foundations are widely used in some policy areas. Since they operate outside of the state administration system, their employees do not fall under the regulation of the PSL or the CSL. This further blurs the scope of the public service.

**Figure 1: Proportion of civil servants in a sample of public bodies at the end of 2017**



Source: CSO

The upper end of the vertical<sup>274</sup> scope of both the public service and the civil service is clearly established in the PSL 2018. It establishes a clear differentiation between the public service and other public positions that are occupied as the result of political processes or discretionary decisions<sup>275</sup>. Public service (state service and community service in the PSL 2018) is defined as a professional activity aimed at

<sup>270</sup> The proportions are as follows: approximately 67% in the Ministry of Economic Development and Investments (200 civil servants of a total staff of 300 [only approximate figures were provided in this case]); 68% in the Cadastre (535 civil servants of a total of 783 employees); 85% in the Social Security Service (527 civil servants of a total of 623 employees); and 88% in the State Statistical Committee (317 civil servants of a total of 360 employees).

<sup>271</sup> OSCE (Organization for Security and Co-operation in Europe) (2017), *Assessment of Armenia's Public Service Reform*, January 2017, OSCE, Vienna, p. 5.

<sup>272</sup> Law on Civil Service 2018, Articles 32, 44.4 and 44.5.

<sup>273</sup> The Law on Public Service 2018, Article 3.3 includes a list of public servants in which the judicial service, the diplomatic service, the customs service, the tax service, the rescue service, the police service, the penitentiary service, law enforcement servants and court bailiff servants are listed separately from the civil service.

<sup>274</sup> As defined in OECD (2016), *The Principles of Public Administration: A Framework for ENP Countries*, OECD, Paris, p. 23, <http://www.sigmaweb.org/publications/Principles-ENP-Eng.pdf>.

<sup>275</sup> *Idem*, Article 3.

exercising the powers vested in state bodies by legislation. It includes the civil service, among other groups of public servants. The same provisions establish that a public-service position is merit-based and requires political neutrality and professional activity. Other public positions outside the public service may be subject to political election or appointment. The PSL 2018<sup>276</sup> classifies such positions as political, administrative, autonomous and discretionary and includes clear definitions and the specific positions in each case. Political advisors and other discretionary positions are excluded from the civil service<sup>277</sup>, and the persons occupying such positions can be replaced in case of change of the immediate superior. The PSL 2018 includes the obligation to prepare a job description for the positions of advisors, including higher education and the record of professional experience in the public sector or relevant sectors<sup>278</sup>.

The lower end of the civil service is not explicitly dealt with in the CSL 2018, and the regulation in the PSL 2018 is not fully clear<sup>279</sup>. More specifically, the PSL 2018 establishes that employment relations dealing with the provision of technical maintenance shall be regulated by labour legislation. However, it is not specified what the technical maintenance tasks entail. As the CSL 2018 uses secondary level education as the only criterion for describing the three lowest civil service categories<sup>280</sup>, the boundaries between civil service functions and technical-support functions are blurred.

The CSL 2018 regulates the possibility of filling civil service vacancies through fixed-term contracts in specific circumstances (e.g. vacancies related to maternal leave, military service, training, secondments, etc.) without a predetermined timeline, as well as in other cases prescribed in the legislation, which are not detailed in the CSL 2018<sup>281</sup>. According to the CSO, there are currently many such contracts, due to the temporary suspension of recruitment, and they cover diverse functions, including drafting of legislation. Such provisions contribute to a lack of clarity in the definition of the scope of the civil service.

The material scope<sup>282</sup> of the public service is not completely regulated in the PSL 2018. It establishes that the provisions on the classification of public service positions, training, performance evaluation, mobility, disciplinary procedures, dismissal from a position and termination of employment, among other aspects of employment relations, shall be regulated by the laws regulating individual types of public service<sup>283</sup>.

The regulation of the material scope of the civil service includes all aspects considered in the Principles except salaries, which are regulated by the LRSOPS. With regard to integrity, the CSL 2018<sup>284</sup> establishes some aspects of the institutional and organisation framework to manage integrity in the civil service that were absent from the CSL 2001, based on the regulations on the integrity system for the whole public service established in the PSL 2018<sup>285</sup>.

Regulation of the scope of the civil service is comprehensive, but regulation of the horizontal scope is unclear for some special groups of civil servants, and the vertical scope is not fully aligned with the Principles. In light of this, the value for the indicator on adequacy of the scope of public service is 2.

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<sup>276</sup> *Idem*, Articles 4-8.

<sup>277</sup> *Idem*, Articles 4 and 8.

<sup>278</sup> *Idem*, Article 8.5. The position of advisor requires higher education and at least three years of work experience in the public service or at least five years of work in a relevant field, as well as having attained the age of 30.

<sup>279</sup> *Idem*, Articles 10 and 11.

<sup>280</sup> Law on Civil Service 2018, Articles 7.1 and 7.3.

<sup>281</sup> *Idem*, Article 13.

<sup>282</sup> As defined in OECD (2016), *The Principles of Public Administration: A Framework for ENP Countries*, OECD, Paris, p. 23, <http://www.sigmaweb.org/publications/Principles-ENP-Eng.pdf>.

<sup>283</sup> Law on Public Service 2018, Article 16.

<sup>284</sup> Law on Civil Service, Articles 4 and 33-36.

<sup>285</sup> Law on Public Service, Chapters 5-7.

Adequacy of the scope of public service						
This indicator measures the extent to which there is a legal framework establishing an adequate horizontal, vertical and material scope for the public service, and whether it is consistently applied across the public sector.						
Overall indicator value	0	1	<b>2</b>	3	4	5

Sub-indicators	Points
1. Clarity in the legislative framework of the scope of the civil service	1/2
2. Adequacy of the horizontal scope of the public service	2/6
3. Comprehensiveness of the material scope of civil service legislation	2/2
4. Exclusion of politically appointed positions from the scope of the civil service	2/2
5. Clarity of the lower division line of the civil service	0/1
<b>Total<sup>286</sup></b>	<b>7/13</b>

The new CSL 2018 expands the limits of the horizontal scope of the civil service beyond the executive power to include professional administrative positions of legislative, judicial and independent bodies. However, due to incoherence between the CSL 2018 and PSL 2018, it is not clear whether customs officials, intelligence units of the tax administration, the diplomatic service and law enforcement positions belong to the civil service. The upper end of the civil service is clearly defined, but that definition is not well aligned with the Principles, and the boundaries between technical-support functions that fall inside and outside the civil service are blurred.

### **Key recommendations**

#### **Short-term (1-2 years)**

- 1) The Government should define strategic objectives for the civil service with a proper monitoring framework.
- 2) The CSO should strengthen the quality of the analytical reports on civil service and present them to the Government on an annual basis.
- 3) The CSO should introduce an interim technical solution for collecting HRM-related data until the new HRMIS is functional.
- 4) The Government should introduce changes to the public service legislation that clarifies the horizontal scope of the civil service in relation to the customs officials, intelligence units of the tax administration, the diplomatic service and law enforcement positions.

#### **Medium-term (3-5 years)**

- 5) The CSO should introduce the central HRMIS that is interoperable with the payroll system.

<sup>286</sup> Point conversion ranges: 0-3=0, 4-5=1, 6-7=2, 8-9=3, 10-11=4, 12-13=5.

## Human resource management

**Key requirement: Professionalism of public service is ensured by good managerial standards and human resource management practices.**

The values of the indicators assessing Armenia's performance under this key requirement are displayed below.

Indicators	0	1	2	3	4	5
Meritocracy and effectiveness of recruitment of civil servants				◆		
Merit-based termination of employment and demotion of civil servants					◆	
Merit-based recruitment and dismissal of senior civil servants				◆		
Fairness and competitiveness of the remuneration system for civil servants		◆				
Professional development and training for civil servants			◆			
Quality of disciplinary procedures for civil servants					◆	
Integrity of public servants				◆		

Legend: ◆ Indicator value

### **Analysis of Principles**

**Principle 3: The recruitment of public servants, including those holding senior managerial positions, is based on merit and equal treatment in all its phases; the criteria for demotion and termination of public servants are explicitly stipulated by law and limit discretion.**

The CSL 2018 establishes that competitions for filling vacant civil service positions shall be based on equal opportunities and merit<sup>287</sup>. This is also regulated in the PSL 2018 for the whole public service<sup>288</sup>.

The regulation of the eligibility criteria to enter the civil service is scattered among different articles of the CSL 2018 and the PSL 2018<sup>289</sup>. The criteria are non-discriminatory and aligned with the Principles. No positive discrimination measures are in place for disadvantaged groups, but a by-law is under development to ensure physical accessibility for persons with disabilities to the places where competitions to fill vacancies are held.

Organisation of recruitment is not based on the preparation of staffing plans, neither at the central level nor in ministries and other public bodies, although the CSL 2018 does introduce substantial improvements in the regulation of recruitment. First, it establishes in a single article<sup>290</sup> the different methods of filling vacancies in the civil service; these were regulated in a complex and fragmented way

<sup>287</sup> CSL 2018, Article 9, point 1.

<sup>288</sup> PSL 2018, Article 12, point 1 (5).

<sup>289</sup> *Idem*, Articles 13 and 14 and CSL, Article 8, point 2; Article 10, point 4; Article 17, point 4; and Article 37, point 2 (14).

<sup>290</sup> CSL 2018, Article 8.

in the CSL 2001<sup>291</sup>. Second, it establishes competitions as the sole method for filling positions in the civil service for an indefinite period. Other methods are allowed for vacancies filled internally with current civil servants, such as transfers and direct reallocation of civil servants placed on a reserve list as a result of reorganisations or other procedures that allow for reinstatement. The CSL provides for the organisation of competitions with two stages, first internal and then external<sup>292</sup>. Third, selection procedures specify that: 1) vacancies are published on the official website; 2) applications are submitted in electronic form; 3) tests are conducted tests only in electronic form and on a common information system for the whole civil service; 4) the correction of tests is automated and information on the results is provide to the candidates immediately; and 5) only the best ranked candidate is chosen by the selection committee<sup>293</sup>. More detailed elements of the recruitment procedures are left to the secondary legislation adopted at the end of December 2018<sup>294</sup>. A reference, albeit indirect, to the anonymity of the testing has been removed<sup>295</sup>, although current practice does preserve the anonymity of the candidates.

Competitions to fill vacancies at the civil service entry level are organised by the CSO through a two-tiered procedure<sup>296</sup>. Candidates must pass first a written examination and are then included on a list of eligible candidates. The CSL 2001 did not establish clear procedures to fill vacancies with candidates from this list. Usually, the vacancy was publicly announced by the relevant body, all the candidates on the list could apply and the selection was made through an interview with the immediate superior of the vacant position. The CSL 2018 provides for ratings which place candidates who passed the exam into different rating groups according to the scores obtained. The relevant body must invite to an interview candidates from the highest five ranked rating groups that fulfil the requirements of the job description. The interview must be organised in the same way as for other competitions to fill vacancies in the civil service. As in other competitions, only the candidate who obtains the best results is to be recommended to the appointing authority. The CSL 2018 introduces other improvements in this type of competition, including extending the period during which candidates remain on the list from one to two years (which is more efficient) and reducing the number of rounds of examinations per year from four to two.

The competence of the CSO and the HRM units with regard to competitions depends on three variables: 1) the professional category in which the vacancy falls; 2) the phase of competition (written test or interview); and 3) the subject of the assessment (general knowledge, specific knowledge or professional competence). With respect to professional categories, under the CSL 2018, the CSO is responsible only for competitions to fill vacancies at the level of Secretary General<sup>297</sup> and competitions for filling rating lists for the entrance level professional positions. The ministries and other public bodies employing civil servants are responsible for the rest, including other senior civil service positions. Written tests are organised through an information platform of the CSO, with contents based on a random choice of questions from a pre-established bank of questions. This bank is fed by both the CSO (for questions to assess professional competence and those related to knowledge of the Constitution and other relevant general legislation) and the relevant bodies (for questions on areas of knowledge).

Interviews are conducted by *ad hoc* selection committees formed in each relevant body. The CSO forms committees for filling vacancies for Secretary General positions<sup>298</sup>. A detailed selection procedure is laid

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<sup>291</sup> CSL 2001, Articles 12, 14, 15, 18, 29.

<sup>292</sup> CSL 2018, Article 10.2.

<sup>293</sup> *Idem.*, Article 10.

<sup>294</sup> Decision of the First Deputy Prime Minister No. N 499-A of 25 December 2018 on Formation Tests Tasks, Quantity of Tests Tasks, Methodology and Format of Interviewing.

<sup>295</sup> CSL 2001, Article 14.7 (q) establishes that “the testing stage shall be held by usage of codes for the participants in order to ensure confidentiality”.

<sup>296</sup> CSL 2018, Article 11.

<sup>297</sup> *Idem.*, Article 9.3, with the exception of competitions for the position of Secretary General in the Ombudsman Institution (Article 9.5). In the CSL 2001, Article 40.2, the CSC was responsible for competitions to fill vacancies in the two highest CS categories (senior and chief).

<sup>298</sup> *Idem.*, Article 10.13.

out in the secondary legislation adopted at the end of 2018<sup>299</sup>. Selection committees must have at least five members, including appointing authorities or their representative. This is the Secretary General in all cases except for the highest subgroups (1, 2 and 3) of the leading category, where the appointing authority is the head of the body<sup>300</sup> (i.e. a political appointee). Other members of the selection committee are the head of the structural unit in which the position falls, the head of the HRM unit and other persons having the ability to assess the level of professional knowledge and competence of the candidates<sup>301</sup>. This composition of selection committees is different from that established in the CSL 2001, which required that one-third of the members be from the CSC, one-third from the public body and one-third from academia or other institutions with relevant knowledge. The fact that such committees are formed on an *ad hoc* basis for each competition makes it more complicated to assure professionalism. This issue could be avoided if all potential members of selection committees were systematically trained on selection methods and techniques, so that professional standards of recruitment would be ensured irrespective of the specific composition of the committees. However, in 2017, no training was delivered to members of selection committees in any of the five institutions included in the sample for this assessment.

In case of recruitment for senior civil service positions, assuming these positions belong in all cases to sub-groups 1, 2 and 3 of the leading civil service category, the composition of the selection committees includes political appointees or their representatives<sup>302</sup>. As this may lead to political influence in such recruitment, it is not aligned with the Principles. The composition of selection committees formed by the CSO to interview candidates for positions of Secretary General is not set out in detail in neither in the CSL 2018 nor in secondary legislation. It states only that such committees shall be established by the CSO from a list of member candidates approved by the First DPM<sup>303</sup>. This regulation is clearly insufficient to guarantee professional selection of candidates for such positions, and the secondary legislation has not yet been adopted.

Finally, with regard to the subject of assessment, the CSO is responsible for preparing questions on the professional competence of candidates, irrespective of the category of the position<sup>304</sup>. However, a competency framework on which to base such assessments is still in development. This, along with the issues identified earlier, casts doubt on the quality and professionalism of recruitment in the short term.

With respect to actual recruitment practices, the data collected for 2016 and 2017 shows a very low number of eligible candidates per vacancy in both years irrespective of the civil service category, although the number was slightly higher for junior positions (Table 1). At the time of this assessment, the publication of vacancies in the official websites envisaged in the CSL 2018 was not yet possible, due to technical adaptations to the new legal framework. No competitions have been organised after the entry into force of the CSL 2018, as the secondary legislation was not yet in place. The analysis of a sample of recruitment files to fill non-senior civil service positions in 2017 confirmed the use of written and oral testing, as well as protection of the anonymity of candidates in the written tests, as established in the CSL 2001<sup>305</sup>. Non-use of structured interviews was also confirmed, as well as the composition of selection committees without political interference.

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<sup>299</sup> Government Decree No. 1554-N of 27 December 2018 on the Procedure for Occupying a Vacant Civil Service Position.

<sup>300</sup> CSL 2018, Article 16.3.

<sup>301</sup> *Idem*, Article 13.14.

<sup>302</sup> *Idem*, Articles 10.13 and 16.3.

<sup>303</sup> *Idem*, Article 10, point 13.

<sup>304</sup> *Idem*, Article 10.9.

<sup>305</sup> CSL 2001, Article 14.7.

**Table 1. Effectiveness of recruitment in 2016-2017**

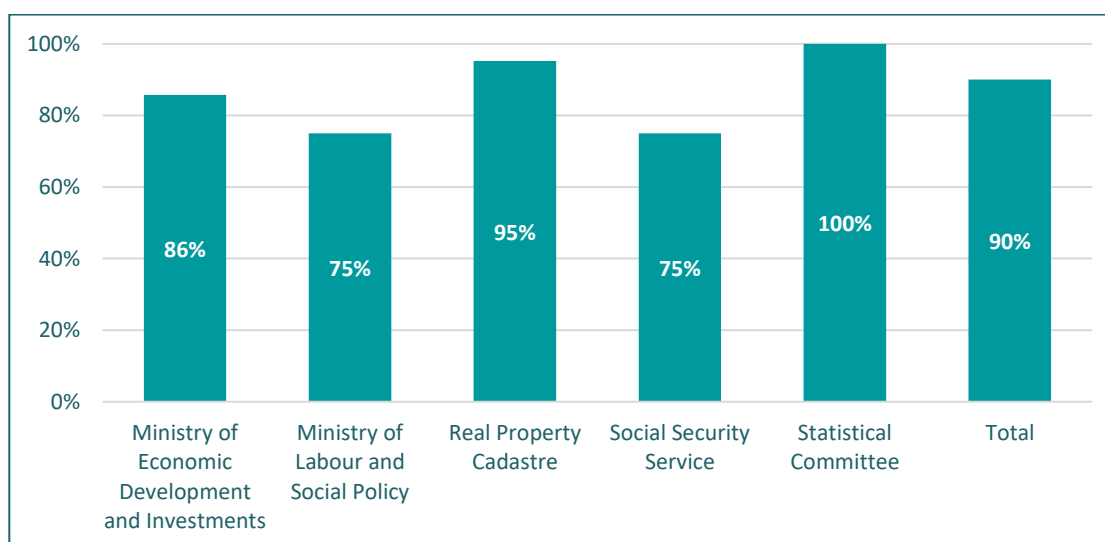
	Junior civil service		Other non-senior civil service		Senior civil service	
	2016	2017	2016	2017	2016	2017
Vacancies offered for competition	144	64	1 260	1 404	36	31
Eligible candidates <sup>306</sup>	511	156	1 340	1 266	24	36
<b>Ratio of eligible candidates per vacancy*</b>	<b>3.5</b>	<b>2.4</b>	<b>1.1</b>	<b>0.9</b>	<b>0.7</b>	<b>1.2</b>
Number of appointments as a result of competitions open for external candidates	123	61	762	N/A	17	N/A.
<b>% of appointments in vacancies offered</b>	<b>85%</b>	<b>95%</b>	<b>60%</b>	<b>N/A</b>	<b>47%</b>	<b>N/A</b>

Notes: N/A= data not available; \* Certified candidates who participated in the competitions, in the case of junior civil service positions

Source: CSO

The number of eligible candidates per vacancy in competitions to fill senior civil service vacancies was also very low in 2016 (0.7) and 2017 (1.2)<sup>307</sup>. Consequently, the effectiveness of recruitment was also very low in such positions (only 47% of the vacancies offered for competition were filled in 2016). For lower-level positions in 2016, the proportion was slightly higher but still low (60%), except for the junior civil service category (85% in 2016 and 95% in 2017) recruited from the pool of certified candidates.

**Figure 2: Retention rate of newly hired civil servants**



<sup>306</sup> Certified candidates who participated in the competitions, in the case of junior civil service positions.

<sup>307</sup> In 2017, there were 36 eligible candidates who participated in competitions to fill 31 vacancies. In 2016 there were 24 eligible candidates to fill 36 vacancies.

Sources: Ministry of Economic Development and Investments, Ministry of Labour and Social Affairs, State Committee of Real Property Cadastre, Social Security Service and Statistical Committee.

In 2017, the retention rate of newly hired civil servants was high, on average (90%) in the five institutions included in the sample for this assessment, although in two cases it was below the standard set in the Principles (Figure 2).

The proportion of women in senior civil service positions was only 15% at the end of 2017, and it decreased from 2016 to 2017, although women make up more than half of the workforce of the civil service (Table 2). In all five sample organisations all selection committee members were men.

The regulation of dismissal from the civil service has improved substantially in the CSL 2018<sup>308</sup>, which sets out objective grounds for involuntary termination. The new CSL has abolished an attestation procedure in the CSL 2001<sup>309</sup> that determined conformity of civil servants' qualifications with the position occupied and could have led to dismissal in case of negative results.

**Table 2. Civil servants by professional category and gender at the end of 2016 and 2017**

Category	2016			2017		
	Men	Women	% Women	Men	Women	% Women
Senior	97	21	18%	104	19	15%
Chief	1 688	1 520	47%	1 651	1 547	48%
Leading	1 011	1 340	57%	903	1 319	59%
Junior	300	728	71%	258	658	72%
Total	3 096	3 609	54%	2 916	3 543	55%

Source: CSO

The CSL 2018 establishes clearly that reorganisations or structural changes of public bodies do not constitute grounds for dismissal except for cases when such processes involve the reduction of the number of staff positions<sup>310</sup>. However, in such processes, the modification of job descriptions may lead to release of civil servants from their position and placement on a personnel reserve list for a maximum period of six months, after which they can be dismissed<sup>311</sup>. The absence of secondary legislation on the criteria and procedures to manage reorganisation and restructuring procedures and decisions on the employment status of civil servants do not allow a more thorough assessment on the objectivity of release and dismissal decisions in such cases.

The data available on the termination of employment in the civil service (Table 3) shows that redundancy of positions or other circumstances related to reorganisation or structural change were among the main grounds for termination of service in 2016 and 2017 and that their relative weight increased substantially (from 17% in 2016 to 27% in 2017). However, the main cause of termination in the assessment period was the end of temporary appointments of persons in the personnel reserve to fill vacancies before competitions were organised<sup>312</sup> (48% and 37% of the total number of terminations of service in 2016 and 2017).

<sup>308</sup> CSL 2018, Article 37.

<sup>309</sup> CSL2001, Article 19

<sup>310</sup> CSL 2018, Article 23.1.

<sup>311</sup> *Idem*, Articles 5.3, 23.1, 24.4, 24.6, and 37.2 (15).

<sup>312</sup> CSL 2001, Article 33.1 (v).

The total number of terminations of service seems very high with respect to the total number of civil servants at the beginning of each year. It indicates a high general turnover (around 26% in both years<sup>313</sup>), caused mainly by the high proportion of termination of temporary appointments from the personnel reserve to fill vacancies without competition. Mobility in senior civil service positions was lower: 15% in 2016 and 13% in 2017<sup>314</sup>, although it went hand in hand with a high, albeit diminishing, proportion of acting senior civil servants in both years (30% in 2016 and 19% in 2017)<sup>315</sup>.

The CSL 2018 maintains the right of civil servants to be reinstated to their position within five days of a declaration of invalidity of a release or dismissal decision, as well as the right to compensation<sup>316</sup>. Aggregated data for the civil service (except for senior civil servants) shows a small number of court decisions on dismissals, eight in 2016 and ten in 2017, of which four each year were final decisions. In both years, three of the four final court decisions confirmed the decision of the administration. The final court rulings in favour of the dismissed civil servants (one each year) were implemented. There were no court rulings on dismissals of senior civil servants during the assessment period.

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<sup>313</sup> In 2016, the total number of terminations of employment was 1 770, out of 6 657 civil servants at the beginning of the year. In 2017, the total number of terminations of service was 1 721, out of 6 705 civil servants at the beginning of the year.

<sup>314</sup> Data provided by the CSO shows that, in 2016, there were 127 senior civil servants at the beginning of the year, of whom 19 left their positions during the year, and, in 2017, there were 118 senior civil servants at the beginning of the year, of whom 15 left their positions during the year.

<sup>315</sup> In 2016, there were 35 acting senior civil servants of a total 118 senior civil servants at the end of the year. In 2017, there were 23 acting senior civil servants of a total of 123 senior civil servants at the end of the year.

<sup>316</sup> CSL 2018, Article 21.15. This right was also regulated in the CSL 2001, Article 35.2.

**Table 3. Termination of employment in the civil service  
in the Government administration in 2016 and 2017**

Grounds for termination	2016		2017	
Termination due to appointment without competition	848	47.9%	635	36.9%
Personal request	449	25.4%	488	28.4%
Redundancy of the position	156	8.8%	423	24.6%
Reaching the maximum age	139	7.9%	108	6.3%
Reorganisation and structural changes	150	8.5%	33	1.9%
Death of the civil servant	11	0.6%	21	1.2%
Election or appointment to a political or discretionary position	6	0.3%	8	0.5%
Court decision	0	0.0%	2	0.1%
Attestation results and reduction of the number of positions	9	0.5%	1	0.1%
Disciplinary sanction	1	0.1%	1	0.1%
Failure to appear at work more than six months in one year due to temporary work disability (except pregnancy and maternity leave)	0	0.0%	1	0.1%
Getting one of the illnesses determined by the Government according to the law	1	0.1%	0	0.0%
<b>Total</b>	<b>1 770</b>	<b>100.0%</b>	<b>1 721</b>	<b>100.0%</b>

Source: CSO

Finally, another development in the new CSL is the abolishing of demotions of civil servants, which was included as a disciplinary sanction in the 2001 Law<sup>317</sup>.

Considering the factors above, the value for the indicator on merit-based recruitment is 3, the value for the indicator on termination of employment and demotion is 4, and the value for the indicator on recruitment and dismissal of senior civil servants is 3.

<sup>317</sup> CSL 2001, Article 32.1 (f).

### Meritocracy and effectiveness of recruitment of civil servants

This indicator measures the extent to which the legal framework and the organisation of civil service recruitment support merit-based and effective selection of candidates wishing to join the civil service and whether this ensures the desired results in terms of competitive, fair and non-discretionary appointments that enhance the attractiveness for job-seekers and performance of the public sector.

This indicator measures only external recruitment. The indicator on merit-based recruitment and dismissal of senior civil servants covers recruitment and promotion to senior managerial positions, and the indicator on professional development covers promotions to other positions.

Overall indicator value 0 1 2 **3** 4 5

Sub-indicators	Points
<b>Legal framework and organisation of recruitment</b>	
1. Adequacy of the legislative framework for merit-based recruitment for civil service positions	13/16
2. Application in practice of recruitment procedures for civil service positions	9/17
<b>Performance of recruitment practices</b>	
3. Time required to hire a civil servant	2/2
4. Average number of eligible candidates per vacancy	0/4
5. Effectiveness of recruitment for civil service positions (%)	0 <sup>318</sup> /4
6. Retention rate of newly hired civil servants (%)	4/4
<b>Total<sup>319</sup></b>	<b>28/47</b>

### Merit-based termination of employment and demotion of civil servants

This indicator measures the extent to which the legal framework and the HRM practices support fair termination of employment in the civil service and fair demotion of civil servants wherever it is envisioned in the legislation. The indicator does not deal with the termination of employment and demotion of senior civil servants.

Overall indicator value 0 1 2 3 **4** 5

Sub-indicators	Points
<b>Legal framework and organisation of dismissals and demotions</b>	
1. Objectivity of criteria for termination of employment in civil service legislation	4/6
2. Objectivity of criteria for demotion of civil servants in the legislative framework	2/2
<b>Fairness and results of dismissal practices</b>	
3. Dismissal decisions confirmed by the courts (%)	2/4
4. Implementation of court decisions favourable to dismissed civil servants (%)	4/4
<b>Total<sup>320</sup></b>	<b>12/16</b>

<sup>318</sup> Data not available.

<sup>319</sup> Point conversion ranges: 0-7=0, 8-15=1, 16-23=2, 24-31=3, 32-39=4, 40-47=5.

<sup>320</sup> Point conversion ranges: 0-2=0, 3-5=1, 6-8=2, 9-11=3, 12-14=4, 15-16=5.

### Merit-based recruitment and dismissal of senior civil servants<sup>321</sup>

This indicator measures the extent to which the legal framework and the organisation of recruitment and tenure conditions of the senior civil service support a professional senior management, free from undue political influence in access or termination of employment in senior civil service positions. This indicator relates to all competitions for senior positions, both external and internal.

Recruitment and dismissal in senior positions is treated under a separate indicator due to the importance of the role of this group of civil servants and the increased risk of politicisation and favouritism. High priority accorded to merit and competitiveness in the recruitment process reduces the possibility of political influence in appointments to such positions.

Overall indicator value	0	1	2	<b>3</b>	4	5
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Sub-indicators	Points
<b>Legal framework and organisation of recruitment and dismissal of senior civil servants</b>	
1. Appropriateness of the scope for the senior civil service in legislation	2/3
2. Adequacy of the legislative framework for merit based recruitment for senior civil service positions	11/13
3. Objectivity of criteria for the termination of employment of senior civil servants in the legislative framework	4/4
4. Legislative protection of the rights of senior civil servants during demotion	2/2
<b>Merit-based recruitment and termination of employment in senior civil service positions in practice</b>	
5. Application in practice of recruitment procedures for the senior civil service	3.5/10
6. Ratio of eligible candidates per senior-level vacancy	0/4
7. Effectiveness of recruitment for senior civil service positions (%)	0 <sup>322</sup> /4
8. Women in senior civil service positions (%)	0/4
9. Stability in senior civil service positions (%)	3/4
10. Dismissal decisions confirmed by the courts (%)	4/4
11. Implementation of final court decisions favourable to dismissed senior civil servants (%)	4/4
<b>Total<sup>323</sup></b>	<b>33.5/56</b>

The new CSL improves several aspects of the organisation of recruitment, but the *ad hoc* formation of selection committees, the lack of specification of the type of interview or of relevant knowledge and experience of committee members challenge the professionalism of such procedures. The general turnover in the civil service was high in 2016 and 2017, mostly due to temporary appointments before competitions were opened, but also due to redundancy of positions and restructuring procedures, for which detailed criteria and procedures are not in place. Stability in senior civil service positions was moderate and improved between 2016 and 2017.

<sup>321</sup> If positions two levels below minister are not part of the civil service (i.e. director general, deputy secretary general, deputy permanent secretary, or a director of a department of a ministry who lead policy areas and manage several, smaller managerial units within the ministry), 0 points are awarded for this whole indicator.

<sup>322</sup> Data not available.

<sup>323</sup> Point conversion ranges: 0-9=0, 10-18=1, 19-27=2, 28-36=3, 37-45=4, 46-56=5.

**Principle 4: The remuneration system of public servants is based on job classifications; it is fair and transparent.**

The salaries of persons holding state positions, including state servants and civil servants, are regulated in the LRSOPS. Among the main principles of remuneration of state servants, the Law establishes the provision of a basic salary corresponding to the responsibilities of the position. This is expressed in a salary scale for civil servants<sup>324</sup> based on the civil service job classification regulated in the CSL 2018<sup>325</sup>.

However, the regulation of job classification under the CSL 2001 presented shortcomings that did not ensure the fairness of the system<sup>326</sup> and led to a high proportion of positions classified in higher categories (Table 2). The regulation of the civil service job classification in the CSL 2018 offers only a general framework that is not yet developed<sup>327</sup> through secondary legislation. It establishes two broad civil service categories, leading (divided into five sub-groups) and professional (divided into eight sub-groups), but the types of positions included in each category and sub-group are not established in the Law. It mentions only indirectly that the position of Secretary General may fall within sub-groups 1 and 2 of the civil service leading category<sup>328</sup>. The CSL 2018 provides only for minimum requirements of education and job experience for each category and sub-group and broad classification criteria. It attributes to the co-ordinating First DPM the competence to approve the methodology for job evaluations and classifications, detailed requirements for each position and preparation and maintenance of the list of positions. The CSO is responsible for ensuring compliance of classification practices with the methodology and must give its consent to proposed job descriptions and classifications presented by the Secretary General of each institution.

The composition of the salary of civil servants and the definition of the different salary components, clearly established in the LRSOPS<sup>329</sup>, include base salary, salary supplements and bonuses. The base salary for each civil service position is determined by multiplying the amount established each year in the state budget by the coefficient which corresponds to each civil service group, sub-group and salary level. Salary steps are awarded based on seniority<sup>330</sup>, but the results of individual performance evaluations may prevent progression if the results are negative<sup>331</sup>. The LRSOPS provides for the possibility of reducing the basic salary of civil servants by one step based on negative results of a performance evaluation<sup>332</sup>.

Salary supplements may include additional salary received due to heavy and/or harmful work conditions, overtime work, working in high mountain areas, night or weekend shifts, dealing with information comprising state and service secrets, as well as for work in military, penitentiary and rescue services. According to the LRSOPS<sup>333</sup>, salary supplements may not exceed 30% of basic salary.

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<sup>324</sup> LRSOPS, Annex 9.

<sup>325</sup> CSL 2018, Articles 5-7.

<sup>326</sup> Decision of the CSC No. 20-N, 18 June 2002, established the criteria and methods to approve the general descriptions of each group of civil servants. These criteria were broadly defined and did not ensure equal classification of positions performing similar tasks.

<sup>327</sup> The secondary act on job classification and evaluation was introduced after the data collection cut-off date of 31 December 2018: The Decision of the First Deputy Prime Minister No. N 3-N of 11 January 2019 on the Methodology for Establishing the Requirements for the Assessment of Civil Service Position, Classification, Assignment of Civil Service Positions, Civil Service Positions, General Deployment Positions, Rights and Responsibilities, Nomenclature, and Occupation of Professional Knowledge and Competences.

<sup>328</sup> CSL 2018, Article 7.2 (1).

<sup>329</sup> LRSOPS, Article 3.

<sup>330</sup> *Idem*, Article 20.

<sup>331</sup> *Idem*, Articles 20.5 and 21.

<sup>332</sup> *Idem*, Article 21.2.

<sup>333</sup> LRSOPS, Article 6.2.

Bonuses are payments based on evaluation of the official's performance or for performing special tasks. The LRSOPS establishes three types of bonuses<sup>334</sup>: 1) bonuses may be awarded twice a year, based on the results of semi-annual performance evaluations of civil servants (if the evaluations and opinion of the immediate supervisor are positive)<sup>335</sup>; 2) bonuses may be awarded up to three times a year from the salary savings fund of the institution, at the discretion of the direct supervisor or the appointing official, to civil servants who have performed special tasks or high-quality tasks, for an amount of up to one month's base salary; and 3) an additional bonus for successful development of experimental projects on optimisation of the work organisation<sup>336</sup>. Award of the first type of bonus was based on the criteria established in the secondary legislation<sup>337</sup>. The second type of bonus is based solely on the general stipulations of the Law and is thus completely at the discretion of the superior. For the third type of bonus, as the by-law had not been adopted at the time of this assessment, it is not possible to assess the adequacy of the criteria used. Overall, the number of different types of performance-related bonuses does not seem justified. It overcomplicates the system and gives excessive discretion to managers.

There is no data available on the civil service payroll on the share accorded to such bonuses. But data provided by four of the institutions analysed for this assessment shows that virtually all civil servants received bonuses in 2017 (Figure 3). Therefore, although the bonuses should formally be based on individual performance, in practice they seem to be awarded uniformly across the board.

Information on salaries received by public servants is not publicly disclosed (average total salaries for different categories and salaries corresponding to vacancies offered for competition). It can be found only in relevant legal acts.

The base salary compression ratio is adequate (1:7.7)<sup>338</sup>, including slightly higher differences between the base salaries of the leading category than between those in the lower category. According to aggregated data on salaries in the public sector and in other sectors of the economy<sup>339</sup>, the average salary in the public sector was 82% of the average salary in other sectors in 2016. This seems low, although it has increased steadily over the last 20 years (it was 59.4% in 1996 and 73% in 2006). However, data on wages of similar groups of employees in both sectors (i.e. tertiary-educated workers), which would provide a better basis for comparison, is not available. The Law provides for regular adjustment of the salaries of public servants based on analysis of relevant sectors of the labour market to be conducted every three years<sup>340</sup>. This seems too long period for a country in transition.

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<sup>334</sup> *Idem*, Article 22.

<sup>335</sup> The system of performance appraisal valid under the CSL 2001 is regulated in the Decision of the Government No. 1510 of 20 October 2011.

<sup>336</sup> LRSOPS, Article 22.11 and Law on the Regulation of the Administrative Legal Relations, Article 20.

<sup>337</sup> Decision of the Government No. 1510-N of 20 October 2011.

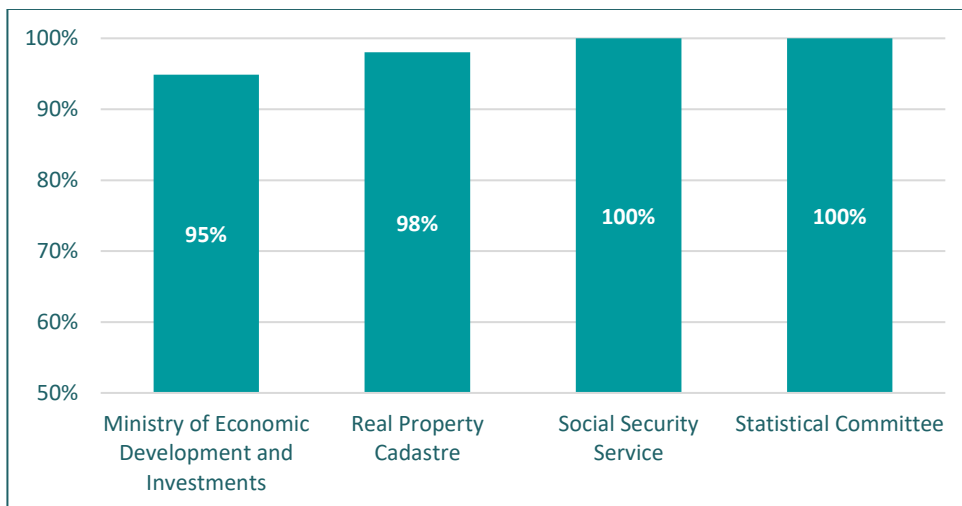
<sup>338</sup> LRSOPS: according to data related to the basic salaries of civil servants included in Annex 9, the minimum coefficient is 1.25 (salary level 1 of the eighth sub-group of the civil service professional group), and the maximum coefficient is 9.65 (salary level 11 of the first group of the civil service leading group). Article 5.5 of this Law establishes a maximum coefficient of 10 points.

<sup>339</sup> Statistical Committee of the Republic of Armenia (2017), Labour Market in the Republic of Armenia, 2011-2015, Chapter 14, Earnings and Labour Costs 2014-2015, Table 14.3, Average Monthly Nominal Wages / Salaries by Institutional Sectors of Economy, p. 209, Statistical Committee of the Republic of Armenia, Yerevan, [http://www.armstat.am/file/article/trud\\_2017\\_14.pdf](http://www.armstat.am/file/article/trud_2017_14.pdf).

<sup>340</sup> LRSOPS, Article 5.4.

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**Figure 3. Proportion of civil servants who received bonuses in 2017**



Sources: Ministry of Economic Development and Investments, State Committee of Real Property Cadastre, Social Security Service and Statistical Committee.

According to official data on salaries by gender<sup>341</sup>, in the public sector in 2016, the average monthly nominal wages of women were 81.9% those of men, compared to 66.4% in the general economy<sup>342</sup>. Once again, this is a crude comparison that does not control for variables other than gender that may influence this wage gap, such as the level of education or profession.

The value for the indicator on the remuneration system of civil servants is 1.

<sup>341</sup> Statistical Committee of the Republic of Armenia (2017), Labour Market in the Republic of Armenia 2011-2015, Chapter 14, Earnings and Labour Costs 2014-2015, Table 14.17, Average Monthly Nominal Wages / Salaries by institutional Sectors, Economic Activity and Sex, p. 222, Statistical Committee of the Republic of Armenia, Yerevan, [http://www.armstat.am/file/article/trud\\_2017\\_14.pdf](http://www.armstat.am/file/article/trud_2017_14.pdf).

<sup>342</sup> Idem., Table 14.4. Average Monthly Nominal Wages / Salaries by Sex, p. 210.

Fairness and competitiveness of the remuneration system for civil servants						
This indicator measures the extent to which the legal framework and the organisation of the civil service salary system support fair and transparent remuneration of civil servants, in terms of both the legislative and organisational preconditions and the performance and fairness of the system in practice.						
Overall indicator value	0	<b>1</b>	2	3	4	5

Sub-indicators	Points
<b>Legal framework and organisation of the remuneration system</b>	
1. Legal obligation to base salaries on job classifications	2/2
2. Comprehensiveness, clarity and transparency in legal definitions of salary, criteria and procedures for allocation	2/2
3. Availability of salary information	0/3
<b>Performance and fairness of the remuneration system in practice</b>	
4. Fairness in the allocation of base salaries in the job classification system	0/4
5. Base salary compression ratio	2/2
6. Managerial discretion in the allocation of bonuses	0 <sup>343</sup> /2
7. Motivational character of bonuses (%)	0/2
8. Competitiveness of civil service salaries (%)	0 <sup>344</sup> /3
<b>Total<sup>345</sup></b>	<b>6/20</b>

The salary structure is clearly established in the CSL 2018, and the base salary scale presents an adequate compression ratio. However, the lack of adequate criteria and methods to classify job positions does not ensure allocation of equal salaries to equivalent jobs. Bonuses are formally based on performance, but virtually all civil servants receive them. Detailed data on the competitiveness of civil service salaries is not available, and information on the salary scales and average salaries in the civil service is not publicly disclosed.

*Principle 5: The professional development of public servants is ensured; this includes regular training, fair performance appraisal, and mobility and promotion based on objective and transparent criteria and merit.*

The CSL 2018 establishes training as a right and a duty of civil servants<sup>346</sup>, and the PSL does the same for the whole public service<sup>347</sup>.

The Secretary General of each institution is responsible for the preparation of a training programme, based on a training needs analysis (TNA), that indicates in each case training courses, training methods and training credits, among other items. The training programme must be sent to the CSO, which must analyse and approve it. All institutions included in the scope of the civil service must follow this procedure, with the exception of the AC. The CSL 2018 thus provides for a more decentralised system in which each institution is responsible for analysing its own training needs and organising training accordingly. Under the CSL 2001, this was the responsibility of the CSC. The CSO retains the mission to organise training related to competences, while the relevant bodies are responsible for training on

<sup>343</sup> Data not provided.

<sup>344</sup> Data not available.

<sup>345</sup> Point conversion ranges: 0-3=0, 4-7=1, 8-10=2, 11-13=3, 14-16=4, 17-20=5.

<sup>346</sup> CSL 2018, Article 19.1.

<sup>347</sup> PSL, Articles 18.1(4) and 19.1(7).

specific professional knowledge. However, the boundaries between the two areas, and therefore the distinction between the competence of the CSO and that of the institutions, is not fully clear. Moreover, the new system is not established yet, and that also makes it difficult to understand the *de facto* division of roles<sup>348</sup>.

The CSL 2018 also provides for a more flexible approach to continuous training of civil servants and evaluation of training achievements. The 2018 Law abolishes compulsory training that had to be taken by all civil servants every three years, as well as the attestation procedure to regularly assess the level of knowledge and skills of civil servants, which, in case of negative results, could lead to release from the position<sup>349</sup>. It introduces a system of training credits to certify successful attainment of training objectives by civil servants. However, the details of the new training credits system have not yet been developed. Nor have the procedures for institutions to prepare and implement TNA and training programmes and to monitor and evaluate them. While awaiting adoption of the secondary legislation, ministries and other public bodies that must take on such responsibilities have not yet started work on preparation.

The CSL establishes a maximum period of six months of participation in training for each civil servant. This seems excessive if it involves full-time participation, and too limiting if it is a module-based programme which requires participation of a couple of days per month. But these aspects are not clear in the Law<sup>350</sup>. This contrasts with the low proportion of civil servants who participated in training at least once in 2016 (26%) and 2017 (25%)<sup>351</sup>. As the administration was not able to provide data related to the total civil service salary budget of the civil service in 2017, it was not possible to calculate training expenditures in proportion to the annual salary budget, but the resources allocated to training seem to be low<sup>352</sup>.

There is limited experience and a lack of continuity in the use of some key elements of the training system, such as the implementation of TNA<sup>353</sup>, the elaboration of training plans<sup>354</sup> or uniform and systematic evaluation of the individual training sessions conducted<sup>355</sup>. No reports on implementation of training are available for 2016 and 2017. The annual report on the civil service prepared by the CSC includes only the total number of training programmes organised throughout the year and the total number of trainees.

The CSL 2018 substantially improves on the previous regulation of individual performance appraisals<sup>356</sup>, which were dealt with only very succinctly in the 2001 Law<sup>357</sup>. The new Law defines performance of civil servants as efficiently achieving work results based on a work plan. It extends the evaluation period from six months to one year, including continuous evaluation at the end of each semester. The immediate supervisor is responsible for evaluating results, as in the 2001 Law, but the 2018 Law establishes the right of civil servants to appeal their supervisor's decision to his/her immediate superior. Finally, the 2018 Law links the results of performance evaluations to identification of training needs, award of

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<sup>348</sup> CSL2018, Article 4.1.

<sup>349</sup> CSL 2001, Articles 2.2, 3 and 19.

<sup>350</sup> CSL 2018, Article 19.6.

<sup>351</sup> CSO.

<sup>352</sup> According to the CSO, the state-funded annual training budget in 2017 was just under AMD 29.7 million, roughly AMD 4 500 (EUR 8) per civil servant.

<sup>353</sup> A TNA method was piloted by the CSC in some institutions from 2013 to 2015, but there was no follow-up in 2016 or 2017.

<sup>354</sup> The only information on training available for 2016 and 2017 is long lists of training broken down by topics, with no indication of objectives, target groups or schedules.

<sup>355</sup> There is no evidence of systematic evaluation by participants of the quality of the courses in 2016 and 2017, although some training providers, such as the Public Administration Academy, conducted such evaluations on their own initiative.

<sup>356</sup> CSL 2018, Article 18.

<sup>357</sup> The CSL 2001 specified only that performance appraisals should be conducted on a semi-annual basis by the direct supervisor of each civil servant (Article 20.1).

incentives<sup>358</sup> and the right to preference in cases prescribed by the Law. The latter refers to cases of restructuring or downsizing procedures leading to release from a position or dismissal from the civil service. With other factors regulated in the Law remaining equal<sup>359</sup>, civil servants with the longest time of service and the best performance results in the last three years of service have a preferential right to continue in the civil service<sup>360</sup>.

However, the Law does not specify explicitly that civil servants must be informed of the objectives against which they will be evaluated, that the results must be recorded in writing and that there must be an interview between the civil servant and his/her direct superior. The secondary legislation may include such elements, but it had not yet been adopted at the time of this assessment.

During 2016 and 2017, semi-annual performance evaluations of civil servants were conducted according to a by-law adopted in 2011<sup>361</sup>, which established an overambitious and complex quantitative system not well adapted to the planning and monitoring capacities of the institutions. Until the new by-laws have been developed, the system is formally still in use for awarding one of the three types of bonuses established by the legislation on salaries<sup>362</sup>. According to the by-law, civil servants are informed of the objectives against which they are evaluated and the results are recorded in writing, but no interview is held. As data is not available on the total number of civil servants eligible for performance evaluation in 2016 and 2017 and the results obtained, it is not possible to assess implementation of these elements of performance evaluation.

The CSL 2018 clearly states that vertical promotions shall be made through competition based on equality of opportunities and merit<sup>363</sup> and that promotions are regulated in the same competitive way as recruitment<sup>364</sup>. This is a substantial improvement on the CSL 2001. It provided for direct appointment of civil servants to positions of a higher group or a higher sub-group within a given range<sup>365</sup> with no competitive or transparent procedures. This was standard practice until the entry into force of the new Law.

Horizontal mobility is also better regulated in the CSL 2018. It explicitly includes swapping of positions, transfers and secondments<sup>366</sup> to vacancies of the same group and subgroup<sup>367</sup>, based on service needs and at the decision of the appointing authority. Time limits for swaps (two years) and secondments (three years) are established in the Law, while transfers may be permanent. Decisions on swaps, transfers or secondments of civil servants cannot lead to termination of service, and secondments give the right to reinstatement in the same position after the time limit has expired. No data is available, however, to assess the practice of horizontal mobility.

Considering the factors analysed above, the value for the indicator on professional development and training for civil servants is 2.

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<sup>358</sup> The link between the results of individual performance evaluations and the award of salary levels was already established in the LRSOPS Articles 21.1 and 21.2.

<sup>359</sup> These factors are: 1) pregnancy; 2) care of a child under the age of three; and 3) compulsory military service.

<sup>360</sup> CSL 2018, Article 23.2.

<sup>361</sup> Decision of the Government No. 1510, 20 October 2011, on Approving the Procedure for Drawing Up Work Plans, Entering Work Plans Into the Electronic Document Circulation System, Evaluation of Performance Through That System and Rewarding Based on Performance in State Bodies of the Republic of Armenia.

<sup>362</sup> The assessment of Principle 4 includes a reference to this bonus.

<sup>363</sup> CSL 2018, Articles 9.1 and 10.19.

<sup>364</sup> *Idem*, Article 10. The adequacy of the regulations and practices of the competitions to fill civil service vacancies is analysed in the assessment of Principle 3.

<sup>365</sup> CSL 2001, Article 12.1.

<sup>366</sup> CSL 2018, Article 12. In the CSL 2001, transfers and the swaps were not explicitly mentioned, and secondments were envisaged only for training purposes (Article 20).

<sup>367</sup> CSL 2018, Articles 12 and 4.1(12).

Professional development and training for civil servants						
This indicator measures the extent to which the legal framework and the organisation of training, performance appraisal, mobility and promotion support fair professional development in the civil service.						
Overall indicator value	0	1	<b>2</b>	3	4	5

Sub-indicators	Points
<b>Legal framework and organisation of professional development</b>	
1. Recognition of training as a right and a duty of civil servants	2/2
2. Co-ordination of the civil service training policy	3/3
3. Development, implementation and monitoring of training plans	0/3
4. Evaluation of training courses	0/2
5. Professionalism of performance assessments	0/4
6. Linkage between performance appraisals and measures designed to enhance professional achievement	4/4
7. Clarity of criteria for and encouragement of mobility	1/2
8. Adequacy of legislative framework for merit-based vertical promotion	1/2
9. Absence of political interference in vertical promotions	2/2
<b>Performance of professional development practices</b>	
10. Training expenditures in proportion to the annual salary budget (%)	0 <sup>368</sup> /4
11. Participation of civil servants in training (%)	0/5
12. Perceived level of meritocracy in the public sector (%)	5/5
<b>Total<sup>369</sup></b>	<b>18/38</b>

The CSL 2018 substantially improves the regulation of training, performance appraisal, horizontal mobility and promotion. However, the secondary legislation has not yet been adopted, and data to assess these procedures in practice is scarce. The public bodies are now responsible for planning, implementing and evaluating training in areas of professional knowledge, but the methods and the resources to take over such responsibilities are not yet in place. Direct promotions without competition have been abolished.

***Principle 6: Measures for promoting integrity, preventing corruption and ensuring discipline in the public service are in place.***

A new legal framework to promote integrity and prevent corruption in the public service was adopted in 2017 and 2018. It includes the new PSL 2018, the LCPC and LWP.

The legal framework includes: 1) the regulation of conflicts of interest for all public officials and public servants<sup>370</sup>; 2) restriction of secondary employment<sup>371</sup>; 3) restrictions on post-employment<sup>372</sup>; 4) rules related to the receipt of gifts and benefits, including a maximum value threshold<sup>373</sup>; and 5) the obligation

<sup>368</sup> Data not provided.

<sup>369</sup> Point conversion ranges: 0-6=0, 7-13=1, 14-19=2, 20-25=3, 26-31=4, 32-38=5.

<sup>370</sup> PSL 2018, Article 33.7, except for deputies of the Assembly, judges, members of the Supreme Judicial Council, prosecutors and investigators. In these cases, such provisions are established by specific laws.

<sup>371</sup> *Idem*, Article 31.

<sup>372</sup> *Idem*, Article 33, point 1(6).

<sup>373</sup> *Idem*, Articles 29 and 30.

for public officials and senior civil servants to disclose assets<sup>374</sup>, including public disclosure of the declaration. The obligation to declare assets applies to persons holding public positions and to senior civil servants, as well as to senior positions in the police, tax, customs, penitentiary and judicial compulsory enforcement services. The legal framework also includes whistle-blower protection for all public servants<sup>375</sup> and principles of conduct and ethics for all public servants<sup>376</sup>. Moreover, in the Penal Code, fraud, deception and corruption offenses perpetrated by public officials are criminalised, specifically the following: financial fraud against the state<sup>377</sup>; acts of forgery or counterfeiting of documents<sup>378</sup>; active bribery<sup>379</sup>; passive bribery<sup>380</sup>; embezzlement<sup>381</sup>; abuse of power<sup>382</sup>; trading in influence<sup>383</sup>; illicit enrichment<sup>384</sup>, and money laundering<sup>385</sup>.

In 2017, administrative sanctions<sup>386</sup> were introduced in respect of violations of the regulations on asset declarations (late or false submissions etc.), as well as criminal sanctions for deliberate non-submission of asset declarations, concealment of data or inclusion of false data<sup>387</sup>.

The Anti-corruption Council is responsible for co-ordination of the implementation of activities and measures foreseen by the anti-corruption policies and action documents, as well as international obligations. The Council provides opinions, recommendations for consideration in anti-corruption strategies and policies that are drafted by the MoJ on behalf of the Government.<sup>388</sup> The Council is chaired by the PM and composed of representatives of the Government (including the MoJ and the MoF), the Prosecutor General, the Ombudsman, the Chairman of the CEHRO, a representative of the oppositional factions of the National Assembly, the Chairman of the Public Council, the Head of the Oversight Service of the President of the Republic of Armenia and one representative of the Armenian Anti-corruption Coalition of Civil Society Organizations, among others. The Anti-corruption Council is assisted by the Anti-Corruption Programmes Monitoring Department of the OPM. It serves as a permanent secretariat of the Council and is responsible for drafting monitoring reports on implementation of the Anti-corruption Strategy and its Action Plan. However, the monitoring reports published on the government website cover only 2015 and 2016<sup>389</sup>. A draft monitoring report for 2017, including only activities carried out by the Government, was provided for this assessment, but it has not been published<sup>390</sup>. The Monitoring Division also supports the work of an Expert Task Force that contributes to development and monitoring of the anti-corruption policy.

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<sup>374</sup> *Idem*, Chapter 6.

<sup>375</sup> Law on the System of Whistle-Blowing, Chapter 5.

<sup>376</sup> *Idem*, Chapters 5-7.

<sup>377</sup> Penal Code, Article 323.

<sup>378</sup> *Idem*, Articles 314 and 325.

<sup>379</sup> *Idem*, Articles 311, 311.1 and 313.

<sup>380</sup> *Idem*, Articles 312, 312.1 and 312.2.

<sup>381</sup> *Idem*, Articles 323, 325 and 326.

<sup>382</sup> *Idem*, Articles 308 and 309.

<sup>383</sup> *Idem*, Article 311.2.

<sup>384</sup> *Idem*, Articles 310 and 310.1.

<sup>385</sup> *Idem*, Article 190.

<sup>386</sup> Law HO-106-N on Amendments to the Code of Administrative Offences of 9 June 2017, Article 169.28.

<sup>387</sup> *Idem*, Articles 314.2 and 314.3.

<sup>388</sup> Decision of the Government No. N165-N of 19 February 2015 on Establishing the Anti-corruption Council and Expert Task Force, and Approving the Composition of the Council and Rules of Procedure for the Council, Expert Task Force and Anti-corruption Programs Monitoring Division of the Staff of the Government of the Republic of Armenia. The decision was amended by the Government Decision No. 1383-N of 29 December 2016.

<sup>389</sup> In Armenian: <http://www.gov.am/am/anti-corruption-reports/> and in English: <http://www.gov.am/en/anti-corruption-reports/>.

<sup>390</sup> Summary information on the course of implementation of measures for 2017 provided for by the Action Plan 2015-2018 of the Anti-corruption Strategy of the Republic of Armenia. The document includes information on activities

This institutional framework has been substantially modified with the adoption of the LCPC, which creates the CPC as an independent corruption prevention body accountable to the Parliament, although its budget request and staff list must be approved by the Government<sup>391</sup>. The CPC will replace the CEHRO and will have co-ordinating powers with respect to the prevention of and fight against corruption in the whole public service.

However, the CPC has not yet been created. The ethics commissions and the integrity officers required in each public body according to the PSL 2018 and the CSL 2018<sup>392</sup> were established in January 2019. The previous institutional system, which is still in place, does not encompass the whole public service. The CEHRO only has competence on high-ranking public officials (elected or politically appointed authorities<sup>393</sup>).

The Anti-corruption Strategy 2015-2018 covers the whole public sector and has clear objectives, although they are broadly defined in some cases. In addition, the Anti-corruption Strategy covers four specific sectors, health, tax, education and police with regard to the provision of public services to citizens. A detailed action plan with time schedules and costing is not in place for the whole Anti-corruption Strategy. Four sectorial action plans were adopted by the Government on 18 January 2018<sup>394</sup>, but no specific measures for the civil service are in place. A monitoring report on some centre-of-government areas shows a high level of implementation<sup>395</sup>, but, according to external sources, only 15% of the initial budget has been used<sup>396</sup>. The new strategy was not adopted by March 2019.

The CEHRO is responsible for public officials' asset declarations, which are submitted through an electronic platform and are publicly disclosed on the CEHRO website<sup>397</sup>. The CEHRO's competence includes checking compliance and verifying the declared data. This verification includes cross-checking with external databases to which the CEHRO has online access, such as the State Register of Legal Entities, the State Register of Civil Status Acts and the State Committee of Real Property Cadastre, among others. However, there are information gaps in some cases, as not all relevant documents are digitised<sup>398</sup>.

Although the CEHRO has no powers to investigate non-compliance with post-employment or secondary employment regulations, in 2017 it was empowered to institute administrative proceedings within its domains of competence through amendments introduced in the PSL 2018<sup>399</sup>. The CEHRO had seven staff members in 2017<sup>400</sup>, while the CPC is expected to have around 40 staff at the time of its creation.

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implemented by the Ministry of Justice, the CSO, the Ministry of Finance and the Ministry of Territorial Administration and Development.

<sup>391</sup> LCPC, Articles 5 and 19.

<sup>392</sup> CSL 2018, Chapter 7 and PSL 2018, Chapter 7 in both cases.

<sup>393</sup> PSL 2011, Article 5.1.15.

<sup>394</sup> OECD (2018), *Anti-corruption Reforms in Armenia: Fourth Round of Monitoring of the Istanbul Anti-Corruption Action Plan*, OECD, Paris (document adopted on 4 July 2018) p. 23, <http://www.oecd.org/corruption/acn/OECD-ACN-Armenia-4th-Round-Monitoring-Report-July-2018-ENG.pdf>.

<sup>395</sup> According to the document entitled Summary Information on the Course of Implementation of Measures for 2017 Provided for by the Action Plan 2015-2018 of the Anti-corruption Strategy of the Republic of Armenia, 42 activities were foreseen for 2017 under the responsibility of the MoJ, the MoF, the CSO and the Ministry of Territorial Administration and Development, of which 33 were implemented (79%).

<sup>396</sup> OECD (2018), *Anti-corruption Reforms in Armenia: Fourth Round of Monitoring of the Istanbul Anti-Corruption Action Plan*, OECD, Paris (document adopted on 4 July 2018), p. 8, <http://www.oecd.org/corruption/acn/OECD-ACN-Armenia-4th-Round-Monitoring-Report-July-2018-ENG.pdf>.

<sup>397</sup> <http://www.ethics.am> in Armenian and <http://www.ethics.am/en/> in English.

<sup>398</sup> Information presented by the Government prior to the ninth intersessional meeting of the Working Group on Prevention of the United Nations Office on Drugs and Crime, 6-7 September 2018, pp. 13-14, <https://bit.ly/2R3kx5B>.

<sup>399</sup> Law HO-98 on Amending and Supplementing the Law on Public Service of 28 June 2017.

<sup>400</sup> Information presented by the Government of the Republic of Armenia prior to the ninth intersessional meeting of the Working Group on Prevention of the United Nations Office on Drugs and Crime, 6-7 September 2018, p. 12. <https://bit.ly/2R3kx5B>.

Consistent with the situation of the legal and institutional framework, the evidence gathered shows that no investigations took place in 2016 and 2017 on secondary employment, post-employment, gifts and benefits, and whistle-blowing reports of public authorities and public servants. The CEHRO analysed 2 181 declarations of assets and conducted a thorough verification of data in 841 cases, which led to identification of violations of the legislation on conflict by high-ranking officials in the conclusion of 99 public-procurement contracts. Two criminal cases were under investigation by the General Prosecutor's Office, involving, among other offences, provision of false data and concealing information subject to the declaration of assets<sup>401</sup>.

The CSL 2018 introduces some improvements in the quality of the disciplinary procedures<sup>402</sup>:

- 1) It clearly specifies the grounds for applying disciplinary measures, although it does not include a list of offences<sup>403</sup>.
- 2) Regulation of disciplinary penalties has improved:
  - a) Penalties are now classified as either light or severe.
  - b) Salary reduction penalties are now specified: a decrease of up to 20%, which cannot be higher than the base salary.
  - c) Demotions are eliminated, and termination of service replaces the previous penalty of release from the position. This is much clearer, given that under the 2001 Law, release from positions in such cases ultimately led to termination of service.
- 3) It establishes an obligation to conduct an official investigation before applying a disciplinary sanction. In the 2001 Law, this was obligatory only in some cases<sup>404</sup>.
- 4) It introduces the consideration of aggravating and mitigating factors when imposing a disciplinary penalty.
- 5) It introduces the possibility of material liability of civil servants.

The 2018 Law retains the possibility of suspension during the service investigation, without affecting the salary of the civil servant and the secondary act specifies the procedure and rights of the civil servant under investigation<sup>405</sup>. However, it does not specify either the grounds for suspensions or the maximum length of suspensions<sup>406</sup>. Protection of the rights of civil servants who are subject to disciplinary procedures has improved slightly in the 2018 legislation, but some flaws remain. The regulations ensure the right of civil servants to: 1) defend themselves against charges and submit their own version of the facts and proofs<sup>407</sup>; 2) use legal advice of their choice<sup>408</sup>; and 3) appeal decisions of the disciplinary authority<sup>409</sup>.

With respect to the right to appeal disciplinary decisions, the CSL 2018 provides for both administrative and judicial appeals, except for penalties imposed for violating the rules of conduct, failing to follow other restrictions, and violating the rules of conflict of interest or the prohibition on accepting gifts. In

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<sup>401</sup> Data provided by the CEHRO (October 2018).

<sup>402</sup> CSL 2018, Article 21.

<sup>403</sup> The Law establishes that disciplinary penalties shall be applied to the civil servants in cases of not performing official duties with no valid reason, not performing them properly, exceeding official powers, violating internal rules of labour discipline, violating rules of conduct of civil servants, failing to follow other restrictions and violating the rules of conflict of interest or the prohibition on accepting gifts.

<sup>404</sup> CSL 2001, Article 32.4.

<sup>405</sup> Decree No. 814 on the Procedure for Service Investigation, 19 July 2018.

<sup>406</sup> CSL 2018, Article 22.5. The regulation on suspension was the same in the CSL 2001, Article 32.5, except for the maximum length of the suspension, which was established at one month.

<sup>407</sup> PSL 2018, Article 18.

<sup>408</sup> *Ibid.*

<sup>409</sup> CSL 2018, Article 21.11.

these cases, only a judicial appeal is envisaged<sup>410</sup>. This differentiation between violations related to integrity issues and other violations affects how investigations are conducted, given that the CSL establishes that, for violations related to integrity issues, investigations are to be conducted by the relevant institution's internal ethics commission<sup>411</sup>. However, as the Law does not clearly establish which offences fall under one category or the other, it is not clear in practice which procedure should be applied.

The CSL 2018 decentralises the organisation of the investigations service to the ethics committees of public bodies, while under the 2001 Law, this responsibility fell within the competence of the CSC. The appointing authority must establish the official investigation in accordance with procedures established through secondary legislation. The Law establishes that the internal commission shall be formed by the Secretary General of the relevant body<sup>412</sup>, but in case of misconduct of the Secretary General herself/himself, the Law does not specify what procedures to apply.

Finally, the CSL 2018 improves some aspects related to the time limits for initiating disciplinary procedures and imposing disciplinary sanctions, as well as on the extinction of such penalties, but some significant flaws remain. First, the Law does not establish any time limit for initiating disciplinary procedures from the date when the wrongdoing became known. It does establish time limits for imposing disciplinary penalties, but they are shorter than those established by the assessment methodology<sup>413</sup>.

There is no aggregated data on disciplinary procedures conducted in the central government administration or on the sanctions imposed. Only data on disciplinary sanctions imposed by the CSC is available. The numbers are remarkably low: seven disciplinary sanctions were applied to civil servants in 2016 and two in 2017. One court decision was issued each of these years on disciplinary penalties imposed by the administration. In 2016, the court did not confirm the penalty while in 2017, the court's decision was favourable to the Administration.

Considering the factors analysed above, the value for the indicator on the quality of disciplinary procedures for civil servants is 4, and the value for the indicator on the integrity of public servants is 3.

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<sup>410</sup> *Idem*, Article 21.13.

<sup>411</sup> *Idem*, Article 22.2. The Ethics Commission is regulated in the Chapter 7 of the same law.

<sup>412</sup> *Idem*, Article 33.

<sup>413</sup> *Idem*, Articles 21.4 and 21.5 establish that a penalty may not be imposed where more than six months have elapsed from the day when the violation was committed, except for cases where the violation is revealed during the investigation of financial-economic activity. In that case, the time limit for imposing disciplinary sanctions is three years.

Quality of disciplinary procedures for civil servants						
This indicator measures the extent to which the legal framework and the organisation of disciplinary procedures support individual accountability, professionalism and integrity of civil servants and safeguard civil servants against unfair and arbitrary disciplinary cases.						
Overall indicator value	0	1	2	3	<b>4</b>	5

Sub-indicators	Points
<b>Legal framework and organisation of disciplinary system</b>	
1. The adequacy of civil service legislation to uphold basic principles related to disciplinary procedures	2/4
2. Compliance between disciplinary procedures and essential procedural principles	6/6
3. Time limits for the administration to initiate disciplinary action and/or punish misbehaviour	0.5/2
4. Legislative safeguards for suspension of civil servants from duty	1/2
<b>Performance of the disciplinary procedures</b>	
5. Disciplinary decisions confirmed by the courts (%)	4/4
<b>Total<sup>414</sup></b>	<b>13.5/18</b>

Integrity of public servants						
This indicator measures the extent to which legislation, policies and organisational structures promote public sector integrity, whether these measures are applied in practice and how the public perceives the level of corruption in the public service.						
The indicator does not address the internal administrative proceedings related to integrity, as that is covered by a separate indicator on disciplinary procedures.						
Overall indicator value	0	1	2	<b>3</b>	4	5

Sub-indicators	Points
<b>Legal framework and organisation of public sector integrity</b>	
1. Completeness of the legal framework for public sector integrity	5/5
2. Existence of a comprehensive public sector integrity policy and action plan	2/4
3. Implementation of public sector integrity policy	0/3
<b>Public sector integrity in practice and public perceptions</b>	
4. Use of investigations in practice	0/4
5. Perceived level of bribery in the public sector by businesses (%)	4/4
6. Bribery in the public sector experienced by citizens (%)	3/4
<b>Total<sup>415</sup></b>	<b>14/24</b>

<sup>414</sup> Point conversion ranges: 0-3=0, 4-6=1, 7-9=2, 10-12=3, 13-15=4, 16-18=5.

<sup>415</sup> Point conversion ranges: 0-3=0, 4-7=1, 8-11=2, 12-15=3, 16-19=4, 20-24=5.

The PSL and the CSL have improved the regulation of disciplinary procedures, but some flaws remain. The new legal and institutional framework to promote integrity and prevent corruption in the public service is not yet implemented. The scope of authority of CEHRO includes only high-ranking officials. Therefore, senior civil servants and especially risky groups of public servants, such as those working in the tax administration, the customs or the police, are excluded from its competence.

**Key recommendations**

**Short-term (1-2 years)**

- 1) The Government should introduce changes to the civil service legislation that would exclude political appointees from selection committees.
- 2) The Government should significantly decrease the share of discretionary bonuses in total pay and ensure that performance pay is based on a sound performance management framework.
- 3) The CSO should start conducting TNA, introduce short and mid-term training plans and an evaluation system.

**Medium-term (3-5 years)**

- 4) The CSO should introduce a plan to improve the attractiveness of the civil service to considerably increase the number of candidates for vacancies.
- 5) The CSO should establish capacities for salary analysis and start publishing comparative annual salary reviews.



## ACCOUNTABILITY

### 1. STATE OF PLAY AND MAIN DEVELOPMENTS: JANUARY 2017 – DECEMBER 2018

#### 1.1. State of play

The structure of the state administration has improved following the Constitutional amendments but still lacks a consistent and rational design which assigns the appropriate level of autonomy to each type of organisation according to its purpose and functions. The serious imbalances between agency autonomy and ministerial steering impede the effective execution of government policies. A high number of institutions are subordinated to the Council of Ministers (CoM). As these bodies are completely autonomous from the relevant ministries formally in charge of policy formulation and implementation it can create conflicts and blockages. Private law foundations are widely used as delivery vehicles in priority policy areas such as digital services and tourism. There is minimal supervision and control of their activities, and poor transparency.

The legislation on access to public information does not require all bodies performing public tasks to disclose information about their activities, only those financed through the state budget. No institution exists to monitor compliance with the legislation and promote access to information centrally. In practice, the websites of state administration bodies do not contain basic information, such as annual budgets or plans, but the state does disclose essential datasets. Surveys show that businesses are highly satisfied with the accessibility of public information, whereas citizens are moderately satisfied.

The legal framework for the Ombudsman fully complies with international standards, but some room for improvement exists for the Audit Chamber (AC) and courts. Both the Ombudsman and the AC lack an effective mechanism for monitoring the rate of implementation of their recommendations. The Ombudsman is the only oversight institution trusted by more than half of the population. None of the oversight institutions is perceived as independent of politics by more than half of the population (Figure 3).

The legal framework and institutional set-up for administrative justice is adequate. However, the efficiency of the administrative courts is a key concern, indicated by a high backlog of cases and no signs of effective measures to reduce the backlog in a sustainable manner. The parties have no effective legal instruments against excessive length of judicial proceedings. Citizens have access to the basic legislative and institutional mechanisms to seek compensation for damage caused by actions and omissions of the state administration, and there is evidence in practice of public liability cases where claims of wrongdoing are accepted by the courts.

#### 1.2. Main developments

The 2015 constitutional reform completed in 2018 redesigned the institutional framework in the accountability area. The transition from a semi-presidential to a parliamentary system of governance inevitably led to upheavals in the state administration. The Law on Public Administration Bodies (LPAB) of 23 March 2018 listed ministries and specified main reporting lines for bodies subordinated to the CoM and ministries. Simultaneously, the Law on Administrative Legal Relations (LALR) was adopted, establishing the rules of supervision and accountability for state administration bodies. The Government formed in May 2018 initiated the liquidation of key private law foundations performing public functions. The legislative framework for oversight institutions (the courts, Ombudsman and AC) was also fundamentally changed. The Judicial Code adopted on 7 February 2018 changed the organisation of courts, judicial appointments and disciplinary proceedings. It also created the Supreme Judicial Council (SJC), an independent body tasked with governing the judicial system. The Law on Human Rights Defender (Ombudsman) of 16 December 2016 entered into force in January 2017. The Control Chamber

was transformed into a Supreme Audit Institution (SAI) with the Law on the Public Audit Chamber of 16 January 2018.

## 2. ANALYSIS

This analysis covers five Principles for the accountability area, grouped under one key requirement. It includes a summary analysis of the indicator(s) used to assess against each Principle, including sub-indicators<sup>416</sup>, and an assessment of the state of play for each Principle. Short- and medium-term recommendations are presented at the end of the chapter.

**Key requirement: Proper mechanisms are in place to ensure accountability of state administration bodies, including liability and transparency.**

The values of the indicators assessing Armenia's performance under this key requirement are displayed below.

Indicators	0	1	2	3	4	5
Accountability and organisation of central government			◆			
Accessibility of public information				◆		
Effectiveness of scrutiny of public authorities by independent oversight institutions				◆		
Fairness in handling of administrative judicial disputes				◆		
Functionality of public liability regime				◆		

Legend: ◆ Indicator value

### Analysis of Principles

**Principle 1: The overall organisation of central government is rational, follows adequate policies and regulations and provides for appropriate internal, political, judicial, social and independent accountability.**

The overall architecture of the state administration lacks a clear typology and effective accountability mechanisms. The organisation of central government is fragmented, with various, often conflicting, organisational logics co-existing. In the absence of a strong regulatory framework in this area, different parts of the state administration have evolved along separate tracks and in isolation, without *ex ante* analysis and broader, systemic reflection and steering<sup>417</sup>. The result is institutional complexity and

<sup>416</sup> OECD (2018), *Methodological Framework for the Principles of Public Administration: ENP Countries*, OECD, Paris, <http://www.sigmaweb.org/publications/Methodological-Framework-for-the-Principles-of-Public-Administration-ENP-Countries-May-2018.pdf>. This methodology is a further developed detailed specification of indicators used to measure the state of play against the Principles of Public Administration.

<sup>417</sup> The LALR does not ensure evidence-based policy choices for the organisation of the state administration. As a minimum, an *ex ante* appraisal based on pre-defined criteria for the evaluation of reorganisation proposals should be required.

hybridity to such an extent that central government policy initiatives are difficult to implement, particularly for the many bodies outside the ministerial hierarchy<sup>418</sup>. There are no clear, uniform and rational criteria for the establishment, management and termination of different types of public bodies based on the necessary level of autonomy and functions performed.

The legislative framework establishes two major agents besides the ministries to perform functions relating to public policies: 1) administrative bodies subordinated to ministries, the Prime Minister or the CoM; and 2) private law foundations established by the state. In addition, service delivery functions (e.g. health services, education and social protection) can be assigned to state non-commercial organisations.

The first group of organisations includes 32 bodies<sup>419</sup> listed in the LPAB<sup>420</sup>. However, their status in the LPAB as standalone organisations (agencies) is confusing, as their actual degree of autonomy in performing core functions is similar to organisational units within ministries in most countries. The most significant difference is that subordinated bodies are autonomous in handling operational matters. Subordinated bodies are also authorised to conduct administrative proceedings and issue administrative acts. However, they are not provided with any special guarantees of autonomy in other daily matters. For example, the parent ministry is free to issue guidelines, requests and instructions to the subordinated body, even relating to resolution of individual administrative cases<sup>421</sup>.

In the absence of clear regulation, some agencies are micro-managed by parent ministries, some are highly autonomous and, in some cases, agencies bypass ministries altogether by either taking over the policy formulation function or reporting directly to the CoM<sup>422</sup>. This serious imbalance between agency autonomy and ministerial steering impedes the effective execution of government policies. Agencies are not required to prepare standalone annual plans; they only provide input to ministerial plans. In the absence of specific objectives and targets for agencies, it is hardly surprising that ministries generally fail to monitor the performance of agencies. This leaves large parts of the state administration operating without effective performance monitoring.

Eleven public bodies are subordinated to the CoM: six sectoral inspectorates<sup>423</sup> and five key agencies<sup>424</sup>. These five agencies operate as ministries in all but name, completely autonomously from the ministry formally in charge of formulating and implementing policy. This reduces collaboration and can lead to conflict. For example, the State Revenue Committee reports directly to the CoM and the Ministry of Finance (MoF) has no influence over the collection of tax revenue, even though it is the institution

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<sup>418</sup> This chapter focuses on agencies outside the ministerial hierarchy. The policy-making process between ministries and sub-ordinated agencies is analysed in more detail in the chapter on Policy Development and Co-ordination, Principle 5.

<sup>419</sup> Eighteen bodies subordinated to the ministries, 11 bodies subordinated to the CoM and 3 bodies reporting to the Prime Minister.

<sup>420</sup> LPAB, 23 March 2018.

<sup>421</sup> In the case of the Water Committee it was found that the parent ministry issues several instructions or requests per week.

<sup>422</sup> The Tourism Committee and the Urban Development Committee are two examples where policy development is performed by non-ministerial bodies in practice. Interviews with the Ministry of Emergency Situations and subordinated bodies suggest that this ministry performs no policy-making functions in practice, but operates as an organisational umbrella for various rescue and emergency services. This type of ministry is characteristic of some post-Soviet countries (the Russian Federation, Belarus and Kazakhstan). The responsibility for policy making in the area of internal affairs is not clearly assigned and the management of the rescue and emergency services is heavily centralised. The Committee of Civil Aviation is formally subordinated to the Ministry of Transport, Communication and Information Technologies but in practice enjoys complete autonomy, as the ministry does not have the expertise and capacity needed to supervise it. This body used to report directly to the CoM. With the adoption of the LPAB it was formally transferred to the Ministry of Transport, Communication and Information Technologies without securing the necessary expertise and capacity for the Ministry to perform its new role effectively.

<sup>423</sup> The Health Inspectorate; Environment and Mining Inspectorate; Education Inspectorate; Market Control Inspectorate; Food Safety Inspectorate and the Urban Development, Technical and Fire Safety Inspectorate.

<sup>424</sup> The Committee of Real Estate Cadastre, the Nuclear Safety Regulatory Committee, the State Revenue Committee, the Statistical Committee and the Urban Development Committee.

formally responsible for fiscal policy. Furthermore, interviews suggest that there are no informal steering mechanisms to compensate for these dysfunctional formal reporting arrangements. Representatives of the MoF confirmed that there is no regular direct communication between the Ministry and the State Revenue Committee. These 11 public bodies outside the ministerial hierarchy are not subject to any standard supervision and control scheme, unlike those subordinated to ministries. The Office of the Prime Minister is formally in charge of their supervision, but lacks the resources to perform this function effectively. This arrangement, whereby all sectoral inspectorates have their main line of accountability directly to the CoM, is highly unusual in the international context, and deprives the respective ministries of direct access to information on compliance issues in their policy areas.

There is a low number of public bodies subordinated to the Parliament, which is positive. However, two of those bodies, the State Commission for the Protection of Economic Competition and the Public Service Regulatory Commission<sup>425</sup>, perform purely executive functions and, in most European Union (EU) member countries, are supervised by the Government. These two bodies enjoy the status of autonomous bodies, as defined in Article 122 of the Constitution, which means that they are effectively self-governing. Their annual plans are not subject to external approval. Annual reports are discussed by the parliamentary committees, but approval is not required. No institution has the right to issue guidelines or set objectives for them. This anomaly therefore deprives the Government of any opportunity to affect the regulatory policies of these bodies.

Private law foundations are widely used to deliver services in the Government's priority policy areas, such as digital services and tourism. At least 12 foundations were directly involved in the implementation of Government policies<sup>426</sup> at the end of 2017. Foundations fall outside the public financial management (PFM) regime, their employees are not within the scope of the Law on Public Service<sup>427</sup> and their activities are not subject to public scrutiny through the Law on Freedom of Information<sup>428</sup>. There is no ministerial stewardship framework in place for supervision of the foundations. In most cases, the relevant minister chairs the board of trustees, but there are no direct reporting mechanisms between foundations and ministries.

Foundations operate as subcontractors of ministries or agencies but, in contrast to private subcontractors, they are not selected and supervised according to the public procurement regime. As they operate outside the state administration system they have complete flexibility in decision making, which can speed up processes, reduce administrative burdens and sidestep the dysfunctionalities of the central government structures. However, this also poses a serious risk, as there is minimal supervision and control of their activities and poor transparency, and it creates duplicate and parallel structures. The Government has recently reversed this trend by liquidating some foundations, such as the Digital Armenia Foundation.

The table below summarises the key differences between subordinated bodies and foundations as vehicles for delivering Government policies and implementing laws. It illustrates the regulatory vacuum surrounding foundations.

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<sup>425</sup> Multi-sectoral regulatory bodies performing oversight of energy, water and electronic communications markets.

<sup>426</sup> The Center for Strategic Initiatives; Pension System Awareness Center; National Center for Legislative Regulation; Village and Agriculture Support Foundation; National Competitiveness Foundation; Digital Armenia Foundation, Small and Medium Enterprises Development National Center; Scientific Programs Integration Assistance Center; Center of Legislation Development and Legal Researches; Hi-Tech Cyber Security Center; Disaster Risk Management National Platform and Tourism Foundation.

<sup>427</sup> Law on Public Service, 23 March 2018.

<sup>428</sup> Law on Freedom of Information, 23 September 2003.

**Table 1. Governance and accountability parameters – subordinated bodies versus foundations**

	Subordinated body	Foundation
Legal personality	Operates within legal personality of the state (limited contractual capacity)	Separate legal personality (full, unlimited contractual capacity)
Governance structure	Monocratic management body	Dual management structure (manager and board of trustees)
PFM regime	Fully applicable	Not applicable
Public service regime (employment)	Fully applicable	Not applicable
Transparency regime (Law on Freedom of Information)	Fully applicable	Not applicable
Supervisory and stewardship powers of the Government / relevant ministries	Issuing binding guidelines and instructions Right to request information Right to approve plans and budgets Right to conduct inspections	No direct supervision (indirect supervision via board of trustees)

Source: SIGMA analysis based on the Law on Foundations<sup>429</sup> and the Law on Administrative Legal Relations (LALR).

The internal management of the ministries is regulated by the LALR, which is consistently applied across ministries. It ensures separation of the operational management of the ministry from policy development functions. Decision-making powers relating to organisational matters (such as human resource management, financial management and contractual relations) are assigned to the secretary general, the top-level civil servant in the ministry. Those at the political level (the minister and deputy ministers) are not directly involved in those issues. However, the ministers and deputy ministers represent the ministry in the course of administrative proceedings by issuing the final administrative acts. Neither the Law on the Fundamentals of Administration and Administrative Procedure<sup>430</sup> nor the LALR allow the delegation of these powers to the secretary general or heads of units in the ministry. Moreover, the secretary general is not explicitly allowed to and in practice does not authorise heads of units to take responsibility for routine decisions, such as approving annual leave or business trips. In short, there is little delegation of decision making as most routine decisions need to be formally taken by the secretary general, the deputy minister or the minister.

Considering the lack of a clear and comprehensive typology of central government bodies for establishing basic accountability mechanisms, the value for the indicator on accountability and organisation of central government is 2.

<sup>429</sup> Law on Foundations, 26 December 2002.

<sup>430</sup> Law on the Fundamentals of Administration and Administrative Procedure, 18 February 2004.

### Accountability and organisation of central government

This indicator measures the extent to which the governance model of central government upholds lines of accountability and contributes to increasing the state's capacity, which is defined as the ability of the administrative apparatus of the state to implement policies, deliver services to citizens and support decision makers with policy advice. This includes assessing the legal and institutional framework for overall organisation of central government, as well as its implementation in practice.

Overall indicator value 0 1 **2** 3 4 5

#### Sub-indicators

#### Points

#### Policy and legal framework for central government organisation

1. Clarity and comprehensiveness of official typology of central government bodies	0/5
2. Adequacy of the policy and regulatory framework to manage central government institutions	1/5
3. Strength of basic accountability mechanisms between ministries and subordinated bodies	3/5
4. Managerial accountability mechanisms in the regulatory framework	4/5

#### Central government's organisation and accountability mechanisms in practice

5. Consistency between practice and policy in government reorganisation	1/4
6. Number of public bodies subordinated to the parliament	4/4
7. Accountability in reporting between central government bodies and parent ministry	0/4
8. Effectiveness of basic managerial accountability mechanisms for central government bodies	0/4
9. Delegation of decision-making authority within ministries	1/4
<b>Total<sup>431</sup></b>	<b>14/40</b>

The structure of the state administration lacks a consistent and rational design which assigns the appropriate level of autonomy to each type of organisation according to that organisation's purpose. There is no clear typology of central government bodies, neither in legislation nor in practice. Eleven public bodies are outside the ministerial hierarchy with minimal supervision, undermining the ministries' capacity to oversee policy implementation. Foundations are widely used for important public functions, but largely bypass established accountability mechanisms. Overall, there is no effective results-oriented performance management scheme for bodies implementing Government policies.

<sup>431</sup> Point conversion ranges: 0-6=0, 7-13=1, 14-20=2, 21-27=3, 28-34=4, 35-40=5.

***Principle 2: The right to access public information is enacted in legislation and consistently applied in practice.***

The Constitution enshrines the right of everyone to obtain information and documents relating to the activities of state and local self-government bodies and officials. This right can only be restricted in primary legislation to protect the public interest or the basic rights and freedoms of others<sup>432</sup>. The Law on Freedom of Information (LFI) adopted in 2003, provides a comprehensive legal framework for the application of the right to information. The LFI enables both natural and legal persons to request public information, and the applicant is not required to provide justification for the request. The scope of possible restrictions on access to information is narrow and does not exceed the constitutional standard. The deadline for responding to an access to information application is short: five days with the option to extend to 30 days if the request requires additional work. The information should be provided, in principle, free of charge. Fees may be imposed for copying printed materials, but there can be no fees for information in electronic format. The applicant has the right to challenge the refusal of access to information or administrative silence to a higher instance administrative body or directly to the Administrative Court. There is also a catalogue of information required to be disclosed proactively by the information holders.

However, the LFI does not require public bodies to maintain their websites and publish all the required information there. In 2013 the Government issued a decision specifying some technical and content-related standards for the websites of Government bodies<sup>433</sup>. However, this decision does not apply to information holders that are not part of the Government administration (e.g. local governments). It also lacks mechanisms for monitoring compliance. Furthermore, the legislation only requires data to be published on an annual basis. Moreover, the format and level of detail of the information to be disclosed is not specified in legislation or any executive acts. For instance, information holders are required to disclose their budget, but it is not clear whether this means a detailed financial plan or merely the total amount, and there is no explicit obligation to publish data about the execution of budgets.

Moreover, the LFI is not fully in line with international standards in terms of the procedural framework for access to information upon request. First, the definition of information holders required to disclose public information is too narrow, as it does not include all bodies performing public functions or using public funds. For example, private law foundations established by the state do not fall under the category of information holders. Second, a request for information may be rejected if the applicant asks for the same information twice within six months. The phrase “the same information” is vague and open to misinterpretation and potential misuse. The provision aims to reduce the burden on the administration caused by multiple requests on the same topic, but this objective can be achieved by different means, e.g. the information holder can publish information provided in reply to individual requests on their website and in the case of recurring requests refer the applicant to this website.

The effectiveness of the procedure for obtaining information upon request is also questionable in practice. For instance, the LFI provides for administrative liability of the officials responsible for violations of the right to information. However, according to a report of the Freedom of Information Centre (the non-governmental organisation monitoring access to public information issues), sanctions have been imposed in only two cases since the LFI entered into force in 2003<sup>434</sup>. This report also documents that the right to information is hampered by delays in administrative judicial proceedings, with cases pending for up to five years. As public information quickly loses its relevance for the public, such delays undermine the right to information.

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<sup>432</sup> Article 51 of the Constitution.

<sup>433</sup> Decision of the Government of the Republic of Armenia No. 1521-N of 26 December 2013 on approving the minimum requirements for the official websites of state bodies on the Internet.

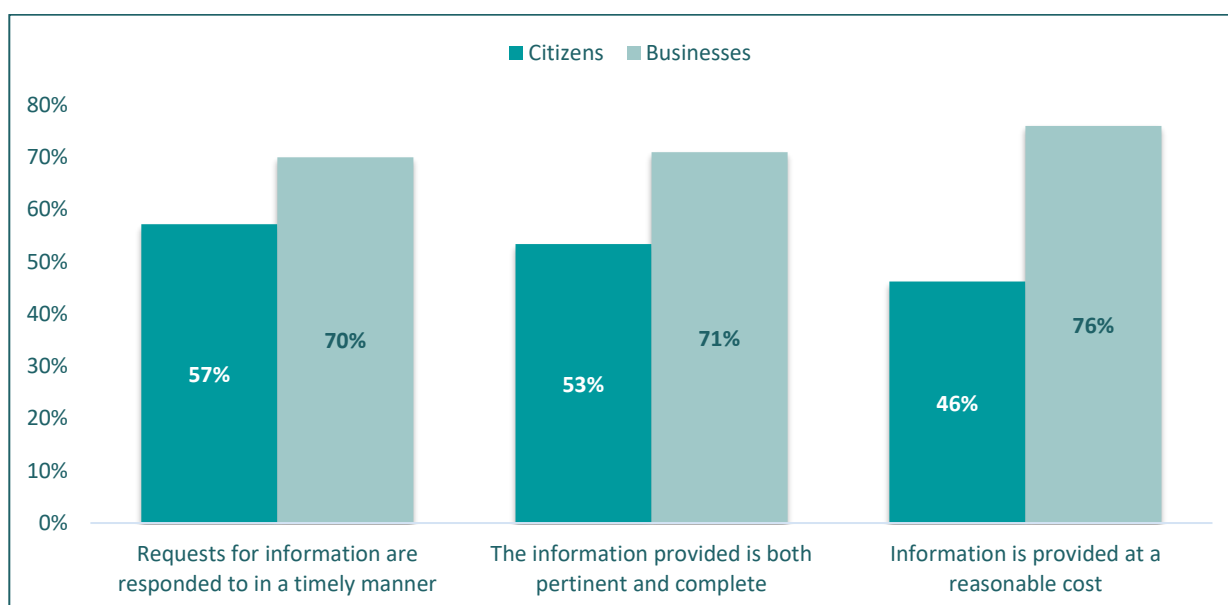
<sup>434</sup> Freedom of Information Centre (2017), *Opinion on the draft law on freedom of information*.

There is no institution tasked with the collection of statistical data, conducting inspections, issuing sanctions in cases of non-compliance with the legislation, providing guidance or training, monitoring practical problems, or promoting the standards of transparency across government.

SIGMA's review of proactive disclosure of public information in practice shows mixed results. Websites of selected state administration bodies do not disclose a significant amount of basic information, such as annual budgets or plans. However, the administration received maximum points on the sub-indicator measuring the availability of key datasets, such as consolidated versions of the legislation and legislative proposals, macroeconomic data and public registries (company registry and land registry). The rulings of the courts of all instances are available via a single web portal.

The majority of citizens and businesses have positive views on three key aspects of access to information, namely timeliness, completeness and pertinence, and costs, as shown in Figure 1 below. Businesses are highly positive towards the accessibility of public information, whereas citizens are moderately satisfied, less than half of citizens believe that information is provided at a reasonable cost.

**Figure 1. Perceived accessibility of public information – citizens and businesses**



Source: SIGMA-commissioned survey of the general population and businesses conducted in October 2018.

As the institutional framework covering the basic functions for implementing access to public information is not in place, the value for the indicator on accessibility of public information is 3.

### Accessibility of public information

This indicator measures the extent to which the legal and institutional framework regarding access to public information is established, promoting timely responses to public information requests free of charge or at a reasonable cost. It also covers the practical application of these legal requirements, with particular focus on proactive disclosure of public information and perceptions of availability of public information.

Overall indicator value 0 1 2 **3** 4 5

#### Sub-indicators

#### Points

#### Legal and institutional framework for access to public information

1. Adequacy of legislation on access to public information	8/10
2. Coverage of basic functions for implementing access to public information	0/5

#### Citizens' level of access to public information

3. Proactivity in disclosure of information by state administration bodies on websites (%)	2/5
4. Proactivity in disclosure of datasets by the central government (%)	5/5
5. Perceived accessibility of public information by the population (%)	1.5/2.5
6. Perceived accessibility of public information by businesses (%)	2.5/2.5
<b>Total<sup>435</sup></b>	<b>19/30</b>

The LFI is generally adequate but does not cover some institutions performing public functions, such as private law foundations established by the state. There is no central institution monitoring compliance with the established rules or promoting better access to public information. Information provided on the websites of state administration bodies could be improved, but the essential public datasets are disclosed. Surveys show that businesses are highly satisfied with the accessibility of public information, whereas citizens are moderately satisfied.

**Principle 3: Functioning mechanisms are in place to protect both the rights of the individual to good administration and the public interest.**

The independence of oversight institutions has been strengthened by the new Constitution, which provides more extensive regulation on the status of the courts, the Ombudsman (Human Rights Defender) and the AC. The Constitutional reform was followed by adoption of the new legislative framework for all oversight bodies, as well as major institutional reforms, such as the establishment of the SJC.

The legislative framework for the Ombudsman is compatible with international standards<sup>436</sup>. The constitutional mandate of this body includes both the protection of individual rights and improving the standards of human rights and freedoms. The independence of the Ombudsman is not only enshrined as a general principle but enhanced by specific legal safeguards, such as the right to immunity and the constitutional requirement to provide the Ombudsman with adequate funding. The Law on Human Rights Defender also specifies that the budget of the Ombudsman cannot be reduced compared to the previous budgetary year. This principle is observed in practice. In addition, a qualified majority is required in the Parliament when electing the Ombudsman.

The Ombudsman holds extensive investigatory powers and may launch a case both upon its own initiative and at the request of any natural or legal person. It has access to the premises of public institutions, and may request information, documents and explanations from relevant public bodies and

<sup>435</sup> Point conversion ranges: 0-5=0, 6-10=1, 11-15=2, 16-20=3, 21-25=4, 26-30=5.

<sup>436</sup> Constitutional Law on Human Rights Defender, 16 December 2016.

officials. There is a statutory deadline of 30 days for public authorities to respond to the Ombudsman's requests. There is good co-operation between the Ombudsman and the Parliament. The annual report of the Ombudsman is actively discussed by a parliamentary committee and presented in the plenary session. Representatives of the Ombudsman are regularly invited to participate in parliamentary committee meetings, to present positions on issues relating to the protection of human rights and freedoms.

The AC holds the status of an independent constitutional body according to the new legislative framework<sup>437</sup>. Its remit includes all financial operations involving public funds, regardless of the status of institutions. However, it is not allowed to audit state and local self-government bodies not funded by the state. The AC plans its audit activities independently and reports only to the Parliament, which receives its annual report. The independence and effectiveness of the AC is analysed in more detail in the Public Financial Management chapter, Principles 11-12.

The new Constitution introduced the independent SJC as a major actor protecting judicial independence and performing key governance functions<sup>438</sup>. Half of the members of the SJC are appointed by the General Assembly of Judges from among active judges, and the other half by the Parliament from among prominent lawyers and academics. The SJC plays a key role in the process of judicial appointments and the promotion of judges. The Judicial Code<sup>439</sup> describes the procedure and criteria for appointments in detail. The recruitment process ensures a comprehensive evaluation of candidates. However, the criteria for the selection of the candidates are not fully transparent. Upon completion of the evaluation process the SJC votes on the candidates. It is not specified how the evaluation results should determine the final vote. The same problem applies to the promotion of judges to the higher courts, where the high level of discretion of the SJC without objective, merit-based criteria in the final selection phase creates a risk of arbitrary choices. Unsuccessful candidates cannot appeal against the decision made by the SJC.

Neither the Ombudsman nor the AC receive points in the sub-indicators measuring the level of implementation of their recommendations, because they do not have systems in place to systematically collect this data. Simply put, this means that the effectiveness of audit activities and the work of the Ombudsman cannot be verified, and that these institutions do not track one of the most important aspects of their work, namely the degree to which their recommendations are implemented. The Ombudsman stated that it is actively seeking assistance to develop a system to track the implementation rate of its recommendations, and was able to provide SIGMA with data on the level of implementation for recommendations that are not part of the National Preventive Mechanism. This partial data clearly demonstrates a very low rate of implementation for most recommendations.

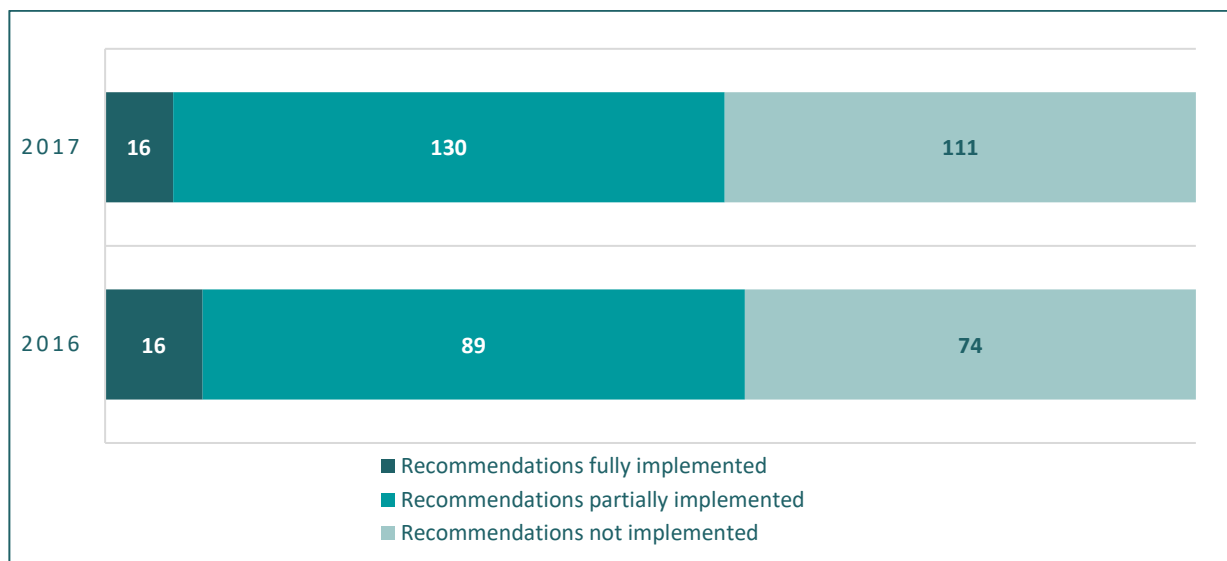
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<sup>437</sup> Law on the Public Audit Chamber, 16 January 2018.

<sup>438</sup> Important ones include conducting the procedure for judicial appointments, specifying the number of judicial positions in the courts, carrying out disciplinary proceedings and imposing sanctions on judges, as well as preparing budgetary proposals for the judicial system.

<sup>439</sup> Judicial Code Law, 7 February 2018.

**Figure 2. Implementation of the recommendations of the Ombudsman  
(excluding recommendations from the National Preventive Mechanism)**



Source: Data received from the Ombudsman.

As shown in Figure 3 below, the Ombudsman is the only of the oversight bodies trusted by the majority of the population. Only 25% trust the AC. The judicial system is trusted by just 39% of the population (in EU member states, on average, more than half of the respondents trust the judicial system)<sup>440</sup>. Part of the explanation for this high level of distrust of these oversight institutions is probably that citizens do not consider them independent of political influence. Only 37% believe that the judicial system is independent, echoing the concerns expressed by international organisations and observers<sup>441</sup>. The AC is considered to be independent from political influence by as few as 27% of the population. Ultimately, citizens have little confidence that their oversight institutions can effectively control the Government. They believe that citizens, civil society organisations or the media can do a better job.

Courts, Parliament and the AC should work actively to improve their public reputation. The AC has a stronger legislative and institutional framework, but does not track the effectiveness of its work and its actions are not visible to the population. Currently half of the population does not have an opinion when asked about their trust in and perceived level of independence of this institution.

<sup>440</sup> Standard Eurobarometer 88: *Public opinion in the European Union* – Autumn 2017, p. 45. Survey conducted by TNS Opinion & Social at the request of the European Commission, Directorate-General for Communication.

<sup>441</sup> For example, Open Society Foundations Armenia (2018), *Judicial Reform in Armenia: Systemic Problems and New Challenges, 2017*, in *Nations in Transit*, Freedom House.

Armenia  
Accountability

Figure 3. Results of a survey of public opinion on oversight institutions



Source: SIGMA-commissioned survey of the general population conducted in October 2018.

Due to the lack of complete data on the rate of implementation of recommendations by the Ombudsman and the AC, the value for the indicator on the effectiveness of scrutiny of public authorities by independent oversight institutions is 3.

Effectiveness of scrutiny of public authorities by independent oversight institutions						
This indicator measures the extent to which there is a functioning system of oversight institutions providing independent and effective supervision over all state administration bodies. The strength of the legislative framework is assessed, as well as the effectiveness of oversight institutions in changing practices in the state administration and building trust among the population.						
Overall indicator value	0	1	2	<b>3</b>	4	5

Sub-indicators	Points
<b>Legal and institutional framework for oversight institutions</b>	
1. Legislative safeguards for the independence and adequate mandate of the ombudsman institution	10/10
2. Legislative safeguards for the independence and adequate mandate of the SAI	6/10
3. Legislative safeguards for the independence of courts and judges	9/10
<b>Effectiveness of and public trust in oversight institutions</b>	
4. Implementation of ombudsman recommendations (%)	0/8 <sup>442</sup>
5. Implementation of SAI recommendations (%)	0/8 <sup>443</sup>
6. Perceived independence of oversight institutions by the population (%)	2/5
7. Trust in oversight institutions by the population (%)	2/5
8. Perceived ability of oversight institutions and citizens to effectively hold the government accountable (%)	3/5
<b>Total<sup>444</sup></b>	<b>32/61</b>

Legislative safeguards are adequate to ensure the independence and functioning of the Ombudsman, the AC and the courts. However, the effectiveness of the Ombudsman and the AC cannot be reliably assessed because the institutions have not yet developed a mechanism for monitoring the implementation of their recommendations. Citizens' trust in courts and the AC is low and the minority of citizens believe that these institutions are independent of political influence or that they can effectively scrutinise the Government.

<sup>442</sup> Insufficient data provided to enable assessment. The partial data provided would also result in no points for this sub-indicator.

<sup>443</sup> Data not available.

<sup>444</sup> Point conversion ranges: 0-10=0, 11-20=1, 21-30=2, 31-40=3, 41-50=4, 51-61=5.

**Principle 4: Fair treatment in administrative disputes is guaranteed by internal administrative appeals and judicial reviews.**

The Administrative Procedure Code<sup>445</sup> provides everyone with the right to initiate judicial review of administrative actions and omissions. The single first-instance Administrative Court has jurisdiction over complaints regarding delays in proceedings conducted by the administrative bodies. Deadlines are established by the Law on Fundamentals of Administration and Administrative Procedure. The deadline for lodging a complaint to the Administrative Court is reasonable (two months). The level of court fees does not create barriers to access to justice<sup>446</sup>. On the other hand, Armenia remains one of the few Member States of the Council of Europe where it is not possible to apply for exemption from court fees based on the material situation of the applicant<sup>447</sup>. A constitutional right to legal aid is in place. However, the legislation does not extend this right to administrative judicial proceedings.

The Administrative Court can invalidate an administrative act fully or partially, order the respective body to undertake some actions or abstain from activities, or declare the administrative action or omission unlawful. However, the Court is explicitly barred from acting with full jurisdiction (e.g. issuing rulings replacing unlawful administrative acts) whatever the circumstances. While such powers should remain strictly limited, in some cases this would serve as the most effective remedy to protect the rights of the parties, for example where an administrative body has issued multiple unlawful acts in the same case or has ignored the previous Court's ruling ordering specific action to be taken.

Rulings of the Administrative Court may be appealed in the single Administrative Court of Appeal. More than 60% of the appealed decisions are quashed or modified through the appeals procedure<sup>448</sup>. This is an indication that the quality of the first-instance case law is not high enough. The judgments of the Administrative Court of Appeal are subject to extraordinary review by the Court of Cassation. This model of administrative justice with three instances is rather unusual. A benefit of the model is that it provides the parties with extensive possibilities to pursue their rights, but a negative consequence is that it may also contribute to significant delays in obtaining final decisions. Moreover, parties are not provided with effective remedies against excessive length of administrative judicial proceedings. The Administrative Procedure Code generally requires the courts to resolve the case within a reasonable time, but no specific deadlines are formulated. The parties have no access to procedural measures to accelerate the proceedings (e.g. special complaint to the higher court against delay) and cannot seek compensation for delays in the first instance or in the appeal procedure.

Court case statistics show that efficiency rates are generally not satisfactory, especially for the appellate instance. The length of proceedings (calculated disposition time) in the Administrative Court was 181 days in 2017, well below the average of 357 days for Member States of the Council of Europe (CoE). However, the length of proceedings in the Administrative Court of Appeal was 416 days, above the CoE average of 315<sup>449</sup>. Furthermore, the clearance rate for both the Administrative Court and the Administrative Court of Appeal was less than 100% in 2017. Both court instances resolved considerably fewer cases than they received, resulting in an increase in the backlog of cases. By the end of 2017, the number of unresolved cases with the second instance court was five times higher than two years earlier.

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<sup>445</sup> Administrative Procedure Code Law, 5 December 2013.

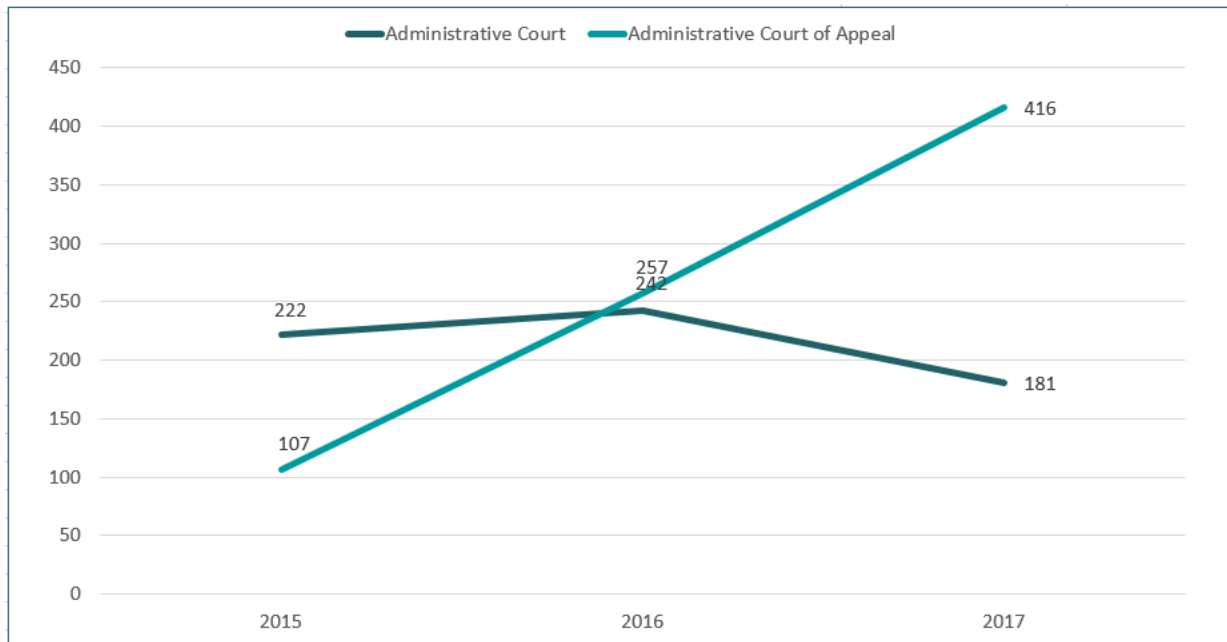
<sup>446</sup> In standard administrative cases the level of fees does not exceed three per cent of the average monthly salary.

<sup>447</sup> CEPEJ, *European judicial systems: Efficiency and quality of justice*, Council of Europe 2018, p. 72.

<sup>448</sup> Data provided by the Judicial Department show that in 2017 the number of resolved cases in the second-instance court was 2 331. Of these, 1 453 were changed or annulled.

<sup>449</sup> In 2016 (latest available data), in 45 European countries the average duration of administrative judicial proceedings was: a) in the first instance courts - 357 days (Armenia in 2017 – 181 days); b) in the second instance courts – 315 days (Armenia in 2017 – 416 days) (CEPEJ, *European judicial systems. Efficiency and quality of justice*, Council of Europe 2018). <https://rm.coe.int/rapport-avec-couv-18-09-2018-en/16808def9c>.

**Figure 4. Calculated disposition time (days) in the Administrative Court and the Administrative Court of Appeal**



Source: Data provided by the Judicial Department.

To reduce the high backlogs of cases, the Law on Amnesty Applicable for Administrative Crimes of 12 July 2018 introduced an amnesty for some traffic-related administrative offences committed by the end of 2017, which resulted in the discontinuation of a large number of court cases. This is, however, not a sustainable way to reduce the backlog and undermines the rule of law. For example, citizens who voluntarily accept the fines without referring to the court are treated unfairly. It also creates moral hazard for citizens who may be tempted to violate traffic laws hoping for another amnesty in the future. Finally, it only temporarily postpones the need for structural reforms to improve the efficiency of administrative courts, as backlogs keep building up. Instead, the efficiency of the courts should be improved.

Some technical measures would help. For instance, the current electronic case-management system is outdated. It does not enable digitalisation of the files and does not provide support for judicial decision making in the form of templates or alerts about delays and necessary actions. In addition, the system does not facilitate monitoring of the workload of courts and judges or the aggregation of real-time statistical data. The Judicial Department responsible for monitoring the workload of the courts has to rely on reports submitted by the courts every six months.

On a positive note, the judges in all courts, including administrative courts, are provided with sufficient support from legal assistants (each judge has at least one assistant). They also have access to training provided by the Academy of Justice. The training curriculum combines elements common for all judges with specialized training on administrative matters. The Training Commission under the General Assembly of Judges sets the minimum number of mandatory training hours annually and the training offered by the Academy of Justice enables the judges to meet those requirements.

The lack of effective remedies against excessive length of proceedings, inadequate functionality of the electronic case-management system combined with a high backlog of cases result in a value for the indicator on fairness in handling of administrative judicial disputes of 3.

### Fairness in handling of administrative judicial disputes

This indicator measures the extent to which the legal framework and the organisation of courts support fair treatment in administrative judicial disputes and the administrative judiciary is characterised by efficiency, quality (including accessibility) and independence. Outcomes in terms of case flow and public perceptions of independence are also measured.

Overall indicator value 0 1 2 **3** 4 5

Sub-indicators	Points
<b>Legal framework and organisation of judiciary</b>	
1. Adequacy of the legislative framework for administrative justice	4/6
2. Accessibility of administrative justice	3/4
3. Effectiveness of remedies against excessive length of proceedings in administrative cases	0/2
4. Use of an electronic case-management system	0/1
5. Public availability of court rulings	2/2
6. Organisation of judges handling administrative justice cases	4/5
<b>Performance of the administrative justice system</b>	
7. Perceived independence of the judicial system by the population (%)	2/5
8. Calculated disposition time of first-instance administrative cases	4/5
9. Clearance rate in first-instance administrative courts (%)	3/5
10. Cases returned for retrial by a higher court (%)	0/5
<b>Total<sup>450</sup></b>	<b>22/40</b>

The legislative framework for administrative justice has room for improvement but overall provides adequate safeguards. However, there are no effective remedies against excessive length of proceedings. In practice, access to administrative justice is hampered by a high and increasing backlog of cases in administrative courts and a lack of effective mechanisms to accelerate the proceedings or seek compensation for delays.

**Principle 5: The public authorities assume liability in cases of wrongdoing and guarantee redress and/or adequate compensation.**

The Constitution guarantees not only the right to compensation for damage inflicted through an illegal action or inaction by the state and local self-government bodies and officials, but also – in cases prescribed by the legislation – for damage caused by legal actions of public authorities. Primary legislation establishes two parallel procedures for seeking compensation: a civil procedure and an administrative procedure. The co-existence of two parallel procedures regulating liability of the same scope enables affected parties to choose the preferred legal strategy to pursue their interests. However, it may also undermine legal certainty and lead to adverse outcomes for the citizens. For example, it remains unclear whether a party that lost a case in one procedure retains the right to initiate the same case in a parallel procedure.

<sup>450</sup> Point conversion ranges: 0-6=0, 7-13=1, 14-20=2, 21-27=3, 28-34=4, 35-40=5.

Articles 18 and 1063 of the Civil Code reiterate the general principle of public liability and establish grounds for seeking compensation in the courts of general jurisdiction. A major shortcoming of this procedure is a lack of indication of how the unlawful nature of the administrative action or omission has to be determined in order to launch the procedure. In particular, it remains unclear whether a final court ruling repealing an administrative act that caused damage is sufficient grounds for launching a public liability claim.

The Law on the Fundamentals of Administration and Administrative Procedure establishes more specific criteria and regulates more extensively the procedure for seeking compensation. According to the provisions of Chapter 15 of this Law, a public liability claim may be submitted when “the legal act, action or inaction of an administrative body that caused damage to a person is declared as illegitimate according to the defined procedure”. This formulation is clearer than the provisions of the Civil Code and indicates that the court ruling cancelling an administrative act as unlawful activates the party’s right to seek compensation.

However, the Law on the Fundamentals of Administration and Administrative Procedure requires the party to submit the claim first to the administrative body that caused the damage, prior to initiation of the court proceedings. This creates additional burden and some procedural risks for the party. First, it delays the procedure without adding significant value. Second, in some cases it may be difficult to pinpoint which authority is liable.

Deadlines for seeking compensation are favourable for the affected parties. The claim for compensation for damage may be submitted within three years from the moment when a person knew or ought to know about the damage caused, but not later than ten years from the moment of taking such action or inaction or entrance into force of the legal act that caused the damage. The primary form of compensation is restitution and monetary compensation applies as a subsidiary mechanism. The procedure for calculation of the compensation is regulated in detail.

Case law of the Administrative Court demonstrates that the public liability regime is applied in practice. In 2017, the Court completed 21 cases based on the Chapter 15 of the Law on the Fundamentals of Administration and Administrative Procedure. Nine claims were accepted or partially accepted. Interviews also suggest that payments are made to entitled applicants, but no documentary evidence was provided by the administration, so no points were awarded for this sub-indicator.

Finally, it should be noted that there is no Government institution monitoring the administrative and judicial practice on public liability with the purpose of detecting and eliminating cases of maladministration. This hinders whole-of-government improvements and learning in this area.

The public liability mechanism is applied in the courts in practice but there are not many cases. Moreover, no evidence was provided to prove that entitled applicants actually received payments. The value of the indicator on the functionality of the public liability regime is therefore 3.

Functionality of public liability regime						
The indicator measures the extent to which there is a functioning system guaranteeing redress or compensation for unlawful acts and omissions of public authorities. It examines the strength of the legislative framework for public liability and whether it is applied in practice. Wrongful acts of the state against civil servants are excluded.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
<b>Legal framework for public liability</b>	
1. Comprehensiveness of the scope of public liability	1/1
2. Coverage of the public liability regime to all bodies exercising public authority	1/1
3. Non-discrimination in seeking the right to compensation	1/1
4. Efficiency and fairness of the procedure for seeking compensation	3/3
<b>Practical implementation of the right to seek compensation</b>	
5. Application of the public liability mechanism in the courts in practice	2/3
6. Payments made to entitled applicants (%)	0/3 <sup>451</sup>
<b>Total<sup>452</sup></b>	<b>8/12</b>

**The legal framework for public liability is adequate. The Law on Fundamentals of Administration and Administrative Procedure meets the standard of procedural fairness. The system is applied in practice, with claims of wrongdoing accepted or partially accepted by the courts. No documentary evidence for payments to entitled applicants was provided to SIGMA.**

### Key recommendations

#### **Short-term (1-2 years)**

- 1) The Government should prepare a concept document to improve the organisation of central government bodies, including: a) establishing an inventory of all public bodies and their functions; b) developing a clear typology of state administration bodies with explicit criteria for elements and degrees of autonomy depending on their accountability lines and main functions; and c) developing a methodology for analysing and deciding on cases of establishment of bodies, functional integration (mergers), abolishment and other types of reorganisation (e.g. introduction of a shared support services scheme).
- 2) A legislative package should be prepared to introduce the strengthened typology for state administration bodies, as well as the stewardship model and performance management scheme for parent ministries. An action plan should be developed by the Government to prepare analysis and proposals for reforms, i.e. mergers, abolishment and reorganisation, following a sequenced approach that allows for the necessary consultation and deliberation.
- 3) Managerial accountability in the ministries should be promoted by: a) enabling and promoting delegation of the authority to represent the ministry in administrative proceedings from the level of minister and deputy minister to general secretaries and heads of units; and b) empowering the general secretaries to delegate to heads of units decision-making powers in technical issues of minor

<sup>451</sup> No data provided.

<sup>452</sup> Point conversion ranges: 0-2=0, 3-4=1, 5-6=2, 7-8=3, 9-10=4, 11-12=5.

relevance, particularly in the area of human resource management (approving annual leave, business trips or trainings for staff).

- 4) The Ombudsman Institution and the AC should develop mechanisms for monitoring the actual implementation of their recommendations and regularly publish results of this monitoring (at a minimum in annual reports).
- 5) The Judicial Department should develop a new case management system for all courts that enables real-time monitoring of the workload of judges and courts, digitalisation of documents, and support in judicial decision-making (templates, forms, alerts about delays, etc.).

**Medium-term (3-5 years)**

- 6) The Law on Freedom of Information should be revised in order to include all bodies performing public functions and using public funds and extend the requirements on proactive transparency of public bodies, e.g. developing an extensive and detailed catalogue of the minimum content to be published on the websites of all public bodies.
- 7) The Government should improve access to public information by assigning responsibilities for monitoring, supervision and guidance in this area to a specific institution. This does not have to imply the establishment of a new and specialised monitoring body, as an existing body could perform this task if given the necessary mandate and resources.
- 8) The Ministry of Justice (MoJ) should develop a law on the right to a trial within reasonable time, envisaging procedural mechanisms to accelerate judicial proceedings in the case of delays and the right to compensation for the parties affected by the delays.
- 9) The MoJ in co-operation with the MoF and the Judicial Department should develop a mechanism for monitoring public liability cases in administrative and judicial practice. This system should generate reliable statistical data and enable the Government to identify and react to cases of maladministration.



## SERVICE DELIVERY

### 1. STATE OF PLAY AND MAIN DEVELOPMENTS: JANUARY 2017 – DECEMBER 2018

#### 1.1. State of play

While the Government of Armenia's policy framework for service delivery in general has not yet been defined, the policy framework for digital service delivery is laid out in the Strategy Programme on Electronic Governance (e-Gov Strategy) and its Action Plan up to 2018. The current Government Programme<sup>453</sup> does not address issues specific to administrative service delivery.

In October 2018, the Government started a liquidation process of the Digital Armenia Foundation (DAF)<sup>454</sup>, one of the two central players in digital government, it has not yet been decided who will take over the responsibility for managing the general service delivery policy.

The Deputy Prime Minister (DPM) responsible for economic development is in charge of the administrative simplification agenda for businesses<sup>455</sup>. While the Law on Normative Legal Acts envisages setting up a renewed Regulatory Impact Assessment (RIA) system, secondary regulation specifying rules on RIA has not been adopted by the Government. The current RIA practice is not been effective in avoiding additional administrative burdens on businesses.

The rights to good administration are mostly ensured by the Law on Fundamentals of Administration and Administrative Action (LFAAA) of 2004. Special laws are harmonised with that law, case by case.

Although there are promising examples of digitally available services, at-large service delivery for citizens and businesses has not yet improved noticeably. There are several reasons for this: first, there is no strong leadership and co-ordination to take on the transformation of service delivery; second, there is no disciplined effort to guide or push individual government bodies to pair technological advancements with service delivery re-engineering and redesign. Third, only limited progress has been made in exchanging data between registries securely, in standard format and in real time. Finally, the lack of a comprehensive policy on multi-channel service delivery has meant that not all service delivery channels have been designated for improvement.

Digital signature technology has been in place since 2004<sup>456</sup>, but its use is limited mostly to businesses. Some business-oriented services are digitised, and only a few truly digital services are available for citizens. In 2017, only 5.6% of citizens used digital services<sup>457</sup>. Personal data protection rules and the dedicated oversight institution, the Agency for Protection of Personal Data, are in place.

The Government has not introduced the policy on quality management to public bodies, and the tools for user engagement are only infrequently applied. Collecting user feedback is restricted mainly to complaints and reporting of problems. Central monitoring of administrative service delivery performance is not in place.

The accessibility of public services has been constantly improving. A wide network of private operators, in addition to the service centres of individual government bodies, is in place to improve accessibility. Currently, 67 administrative services are provided through the network of operators' 126 offices. While the policy for improvement of service delivery for users with disabilities is in place<sup>458</sup>, accessibility for

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<sup>453</sup> Government Decision No. 581-A of 1 June 2018, on the Government Programme of the Republic of Armenia.

<sup>454</sup> Decree of the Government No. 1176 – N of 25 October 2018, <https://www.e-gov.am/gov-decrees/item/30954/>.

<sup>455</sup> For the complete list of functions of the DPM, see Decision No. 565-L of the Prime Minister, 25 May 2018.

<sup>456</sup> Law No. 40-N on Digital Signature and Digital Documentation, 14 December 2004.

<sup>457</sup> Digital Transformation Agenda of Armenia 2030 (DTAA 2030), p. 13.

<sup>458</sup> Protocol Decision No. 1 of the Government on Approval of the 2017-21 Comprehensive Programme of Social Integration of Persons with Disabilities and Measures Ensuring the Implementation of the Programme of 12 January 2017.

users with a disability is not well implemented<sup>459</sup>. The Government portal e-Gov. provides information on services but does not function as an access portal for all government-provided digital services.

## 1.2. Main developments

A vision for better service delivery at large and digitalisation of administrative services is laid out in the draft Digital Transformation Agenda of Armenia (DTAA) 2030, which is awaiting the Government's approval. The current Government has not prioritised service delivery on its agenda<sup>460</sup>, owing to its more pressing needs in other areas.

In December 2017, the Government established a responsible body for digital service delivery reforms, the DAF<sup>461</sup>. However, it then decided to close it down by the end of 2018 and it is not clear which institution will assume its functions.

A Government Decision on the Requirements for Interoperability<sup>462</sup> applies to all state and local government bodies. A programme to install the Government Interoperability Platform (GIP)<sup>463</sup> was launched in 2017, and its technical infrastructure is under deployment. Base registries are digital and government bodies already exchange digital data bilaterally, sometimes in real time. The GIP is being implemented in stages, with the first stage due to be completed in 2020.

An initiative to establish a network of private service providers (banks, post offices) to deliver administrative services throughout the country was launched in 2016. The list of one-stop shops and of services is constantly expanding.

In 2017, the Government adopted the Programme on Social Inclusiveness of People with Disabilities 2017-21 and its Annual Work Plan for 2018. This Programme is based on the review of implementation the United Nations (UN) Convention on the Rights of Persons with Disabilities. A draft of the new version of the Law on the Rights of People with Disabilities is presently at the parliamentary reading stage.

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<sup>459</sup> UN, Convention on the Rights of Persons with Disabilities. Concluding observations on the initial report of Armenia, 8 May 2017; Photo Monitoring of Constitutional Referendum, 6 December 2015, referred to at: <http://disabilityinfo.am/14101/>, viewed on 23 October 2018.

<sup>460</sup> Government Programme 2018 makes no reference to service delivery improvement.

<sup>461</sup> Government Decree No. 926-N, 3 August 2017.

<sup>462</sup> Government Decision No. 1 093-N, 31 August 2015.

<sup>463</sup> The Government Interoperability Platform programme under the "EU4Armenia: e-Gov Actions" project started on 8 December 2017, [https://eeas.europa.eu/delegations/armenia\\_en/41316/EU4Armenia:%20e-Gov%20Actions](https://eeas.europa.eu/delegations/armenia_en/41316/EU4Armenia:%20e-Gov%20Actions).

## 2. ANALYSIS

This analysis covers four Principles for the service delivery area, grouped under one key requirement. It includes a summary analysis of the indicator(s) used to assess against each Principle, including sub-indicators<sup>464</sup>, and an assessment of the state of play for each Principle. For each key requirement, short- and medium-term recommendations are presented.

**Key requirement: The public administration is citizen-oriented; the quality and accessibility of public service is ensured.**

The values of the indicators assessing Armenia's performance under this key requirement are displayed below.

Indicators	0	1	2	3	4	5
Citizen-oriented service delivery				◆		
Fairness and efficiency of administrative procedures					◆	
Existence of enablers for public service delivery		◆				
Accessibility of public services			◆			

Legend: ◆ Indicator value

### **Analysis of Principles**

#### ***Principle 1: Policy for citizen-oriented state administration is in place and applied.***

The policy framework for both service delivery generally and digital service delivery specifically is weak. It is defined by two sets of documents: the Government Programme of the previous Government for the years 2017-22 (Government Programme 2017-22)<sup>465</sup>, which has now been replaced by an interim Government Programme 2018<sup>466</sup>, and the Strategy Programme on Electronic Governance (e-Gov Strategy) and its Action Plan up to 2018<sup>467</sup>. The common thread of these documents is the focus on digitalisation of administrative services and the use of e-government solutions in improving service delivery. Much attention has been paid to describing technological solutions, but little attention has been given to simplifying procedures, eliminating unnecessary administrative burdens or improving accessibility to services in general. The e-Gov Strategy contains objectives, but it does not specify a coherent and comprehensive strategy nor a set of policy measures to achieve them. Programmes related to electronic governance are implemented by the E-governance Infrastructure Implementation Unit (EKENG), a public company owned by the Government. A monitoring system has not been set up. While the Government Programme 2017-22 put a high priority on the modernisation of the public administration, the newly adopted Government Programme 2018 focuses on short-term objectives only,

<sup>464</sup> OECD (2018), *Methodological Framework for the Principles of Public Administration: ENP Countries*, OECD, Paris, <http://www.sigmaweb.org/publications/Methodological-Framework-for-the-Principles-of-Public-Administration-ENP-Countries-May-2018.pdf>. This methodology is a further developed detailed specification of indicators used to measure the state of play against the Principles of Public Administration.

<sup>465</sup> Government Decision No. 646-A, 19 June 2017.

<sup>466</sup> Government Decision No. 581-A, 1 June 2018.

<sup>467</sup> Adopted by the Government protocol Decree No. 14, 10 April 2014.

with a view to preparing snap parliamentary elections. The Government Programme 2017-22 envisaged the preparation of the DTAA, the new digital government strategy, but although the draft has been completed, the Government has not adopted it.

The organisational setup in the area of service delivery reforms is incomplete. The Ministry of Justice (MoJ) has been assigned a key role in creating one-stop shop solutions, by contracting out administrative service provision through private entities, such as banks and post offices, and it supervises the expansion of the number of government services through these entities. However, it does not assume overall policy responsibility for service delivery improvement. The decision of the liquidation of the main policy-making and responsible implementation body for digital service delivery, the DAF, was made by the Government<sup>468</sup> only a little more than a year after its establishment<sup>469</sup>. Neither its policy-making function, nor its technical co-ordination and project implementation role have been transferred to any other government body. The other co-ordinating and managing body of digital government projects is EKENG. This also functions as the only certifying authority that provides digital signature certificates and other services related to digital signatures, such as piloting the mobile ID. However, no government body has been assigned a leadership role in defining the key principles, approaches and methods for transforming existing services into user-friendly services (digital and otherwise). Neither has it been decided what tools and support are needed at a level of individual government organisations (or groups of them) to make that transformation happen. There is also no roadmap for designing the interventions required at the government level (e.g. deciding which priority services should be digitised first and the kind of support from information systems that is required for that). Ongoing projects have not yet been linked with one another. There is no Government Chief Information Officer (CIO) to play the leadership role for initiatives related to e-government, although the Chief of Staff of the Prime Minister factually co-ordinates the implementation of electronic governance programmes. The Ministry of Transport, Communication and Information Technologies (MTCIT) is in charge of developing the policy for reforms in the field of communication and information technologies. However, no institution has the formal authority to review or monitor implementation of government IT projects across the board. Ministries have full autonomy in conducting digitalisation projects, but making the business case is not subject to central review. The draft Law on Structure and Operation of the Governmental intends to expand the authority of the MTCIT in the area of digitalisation<sup>470</sup>.

In the area of improvement of the business climate, the DPM responsible for economic development is drafting the Economic Policy Strategy of Armenia. This addresses specific challenges and issues, aiming to improve not just the business climate at large but the administrative services provided by the Government, and thereby Armenia's position in international rankings. Its office has introduced dedicated working groups consisting of representatives of the Government, as well as the business community, to address such questions as how to simplify creation of new companies, issue construction permits and other topics. This is a continuation of the regulatory guillotine initiative run by the Government from 2012-15 and administered by the National Centre for Legislative Regulation<sup>471</sup>, which resulted in a reduction of the administrative burden by USD 96 million<sup>472</sup>. A dedicated RIA system was also put in place to avoid putting further unnecessary administrative burdens on businesses. Due to selective application of the tool, however (there is no rule specifying which prospective Government decisions it needs to be applied to), the system has not proved effective. Currently, there is an initiative to install a new RIA system based on the Law on Normative Legal Acts<sup>473</sup>, but the secondary legislation to roll out the RIA regulation has not been adopted.

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<sup>468</sup> <https://www.e-gov.am/gov-decrees/item/30954/>.

<sup>469</sup> DAF was established by the Government Decree No. 926-N of 3 August 2017.

<sup>470</sup> The draft was sent to public consultation in February 2019: <https://www.e-draft.am/en/projects/1503/about>.

<sup>471</sup> See [www.regulations.am](http://www.regulations.am).

<sup>472</sup> E-mail from the National Centre for Legislative Regulation on 26 October 2018.

<sup>473</sup> Law No. HO-180-N on Regulatory Legal Acts adopted on 21 March 2018.

Digital service delivery for citizens is not yet modernised, while businesses enjoy several digital services. A few examples stand out as good practices. The Agency for State Registry of Legal Entities is responsible for registration of (among other things) limited liability companies and sole proprietors. This can be done in person or through the e-register.am website, which serves as a one-stop shop<sup>474</sup>. In this case the foundation documents are generated electronically, applying a digital signature<sup>475</sup>. The State Revenue Committee has required electronic-only value-added tax declarations from large companies since 2011, and revenue tax declarations since 2013. Personal income tax declarations are also submitted electronically. However, personal income tax declarations are not yet pre-filled. Businesses have clearly expressed appreciation for digital services: only 36% of businesses are satisfied with public services for businesses but 54% with digital services for businesses<sup>476</sup>.

**Table 1. Number of tax declarations submitted to the State Revenue Committee**

		2016	2017	2018
A	Number of corporate taxpayers	13 881	14 467	
B	Number of corporate taxpayers who submitted declarations for value-added tax	10 100	10 524	9 222
C	Number of corporate taxpayers who submitted declarations for value-added tax electronically	10 026	10 492	9 222
D	Number of corporate taxpayers who submitted declarations of revenue tax	11 880	12 275	11 704
E	Number of corporate taxpayers who submitted declarations of revenue tax electronically	11 880	12 275	11 704
F	Number of (annual) personal tax declarations submitted	55 361	56 871	
G	Number of (annual) personal tax declarations submitted electronically	55 361	56 871	

Source: State Revenue Committee

As for citizens, for example, applying for ID cards is not an online process at any stage. It is not possible to submit any documentation online, nor is it possible to book a visit in advance as no electronic appointment system is in place. Nevertheless, the citizens can apply for and receive the ID cards in a passport service office the most convenient for them. Payment can be handled through a kiosk in the office or through various digital payment solutions. However, for those who need the service quickly, there is a fast-track procedure for a fee that is higher than usual<sup>477</sup>. Documents such as military service certificates or state duty payment receipts must be presented by the applicant. Applying for and issuance of construction permits is also not conducted online, although attempts to digitise the service are under

<sup>474</sup> Interview with Agency for State Registry of Legal Entities on 26 September 2018.

<sup>475</sup> *Ditto*.

<sup>476</sup> SIGMA-commissioned survey of businesses, conducted in October 2018. The percentage of respondents who answered, “tend to be satisfied” or “strongly satisfied”.

<sup>477</sup> Government Decision No. 1 465-N, 11 December 2008.

way<sup>478</sup>. By comparison with OECD countries, Armenia requires 1.5 times more documents to apply for a construction permit, although the time it takes to complete the issuance process is only two-thirds of the OECD average<sup>479</sup>. Numerous information services of the e-cadastre are already digitally available, but for buying and selling land, the unified certificate proving to the notary the accuracy of information on the plot is still provided on paper, because notaries cannot access the electronic version of the certificate<sup>480</sup>. As these examples demonstrate, considerable potential remains for simplifying the procedures by exchanging data between state agencies, instead of using citizens as couriers. The Government is aware of that and in the Programme of Activities of the Government further digitalisation efforts are envisaged<sup>481</sup>. However, citizen satisfaction with administrative services is as high as 71.2%<sup>482</sup>.

A recent study demonstrated that only 5.6% of citizens use digital services (2017)<sup>483</sup>. This is reflected in Armenia's position in the UN E-Government Development Index<sup>484</sup>, in which it is ranked 87th. Its online service component is a modest 0.56 (1 being the best, the average in Asia being 0.62 and in Europe 0.79)<sup>485</sup>. Most services are not available at a high level of digital maturity<sup>486</sup>. For the most part, the only information about the services is available through the central portal, e-gov.am, or on individual government agencies' websites.

Government offices have not been modernised to offer a better service experience, and the organisation of work is outdated. For example, representatives of government organisations interviewed by SIGMA indicated that there are no electronic machines for appointments and that queues develop at peak hours or periods. However, in some government bodies, such as the Passport and Visa Department of the Police, the work is being done to mitigate the issues by setting up such machines<sup>487</sup>.

The value for the indicator on citizen-oriented service delivery is therefore 3.

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<sup>478</sup> The procedure for issuing electronic urban development permits is established in Annex 3 of the Decision of the Government of the Republic of Armenia No. 596-N of 19 March 2015. According to the mentioned procedure, the electronic "e-permits" system for issuance of permits in the field of construction was developed in 2014-2015, but is yet to be implemented.

<sup>479</sup> Armenia requires 19 procedures rather than the average of 12.5 required in OECD countries and the process takes 98 days as opposed to 154.6 in OECD countries. World Bank, *Doing Business 2018*, [http://www.doingbusiness.org/en/data/exploreeconomies/armenia#DB\\_dwcp](http://www.doingbusiness.org/en/data/exploreeconomies/armenia#DB_dwcp).

<sup>480</sup> Interview with the Committee on Real Estate Cadastre and the City of Yerevan on 26 September 2018.

<sup>481</sup> Decision of the Government of Armenia No. 1030-L, adopted on 6 September 2018.

<sup>482</sup> SIGMA-commissioned survey of the general population, conducted in October 2018, showing the percentage of respondents who answer "mostly satisfied" or "completely satisfied".

<sup>483</sup> DTAA 2030, p. 13.

<sup>484</sup> UN E-Government Survey 2018, [https://publicadministration.un.org/egovkb/Portals/egovkb/Documents/un/2018-Survey/E-Government%20Survey%202018\\_FINAL%20for%20web.pdf](https://publicadministration.un.org/egovkb/Portals/egovkb/Documents/un/2018-Survey/E-Government%20Survey%202018_FINAL%20for%20web.pdf).

<sup>485</sup> *Ditto*.

<sup>486</sup> The concept of maturity levels of digital services has been developed by the United Nations for its annual E-Government survey. It rates online services in one of five categories, starting with the provision of information, through to one-way interaction (submission of documents), two-way interaction and, finally, fully digital transactions.

<sup>487</sup> Information from the Police, 30 January 2019.

Citizen oriented service delivery						
This indicator measures the extent to which citizen-oriented service delivery is defined as a policy objective in legislation or official government plans and strategies. It furthermore measures the progress of implementation and evaluates the results achieved, focusing on citizens and businesses in the design and delivery of public services. Implementation and results are evaluated using a combination of quantitative and perception based metrics.						
Overall indicator value	0	1	2	<b>3</b>	4	5

Sub-indicators	Points
<b>Policy framework for citizen-oriented service delivery</b>	
1. Existence and extent of application of policy on service delivery	0/8
2. Existence and extent of application of policy on digital service delivery	4/8
3. Central co-ordination for digital government projects	0/4
4. Established policy on administrative simplification	4/12
<b>Performance of citizen-oriented service delivery</b>	
5. Perceived quality of public service delivery by citizens (%)	6/6
6. Renewing a personal identification document	1.5/6
7. Registering a personal vehicle	1.5/6
8. Declaring and paying personal income taxes	4/6
9. Perceived quality of public service delivery and administrative burdens by businesses (%)	4/6
10. Starting a business	6/6
11. Obtaining a commercial construction permit	4/6
12. Declaring and paying corporate income taxes	4/6
13. Declaring and paying value-added taxes	5/6
<b>Total<sup>488</sup></b>	<b>44/86</b>

The strategic framework for service delivery and digital service delivery is weak. It is defined by the e-Government Strategy up to 2018, which does not serve as the government-wide policy document to improve service delivery at large. Only a few exemplary user-friendly services are currently provided, mostly for businesses. The reform organisation for service delivery transformation is deficient, due to the lack of clarity on the roles of major players and because of functions that are at present in need of an owner. The Government's better regulation agenda has been consistently implemented over the years, but an RIA system to avoid adding unnecessary administrative burdens on business is not yet in place.

<sup>488</sup> Point conversion ranges: 0-14=0, 15-28=1, 29-42=2, 43-56=3, 57-70=4, 71-86=5.

***Principle 2: Good administration is a key policy objective underpinning the delivery of public service, enacted in legislation and applied consistently in practice.***

The Constitution of 2015 established an explicit right to proper administrative action<sup>489</sup>. Article 50 states that everyone shall have a right to impartial and fair examination by administrative bodies of a case concerning him or her, within a reasonable period. The right to become familiar with all documents concerning the involved party is enshrined in law, as is the officials' obligation to hear the person prior to the adoption of an interfering individual act<sup>490</sup>, with exceptions allowed by law.

The Law on the Fundamentals of Administration and Administrative Procedure (LFAAP)<sup>491</sup> has been in place since 2004. The Law sets general rights to good administration, such as the right to be heard prior to a decision, access to records regarding the administrative procedure, the requirement to expedient administrative procedure (limited to 30 days as a rule) and the right to appeal an administrative act, action or inaction of an administrative body.

In addition, the Law also sets out the requirements for administrative acts. It requires that the act refer to the factual and legal grounds for making the decision (Article 55) and that reasons for the decision are provided (Article 57). It also requires that the administrative acts contain reference to the appeals procedure (Article 55). The appeals procedure can be initiated by addressing the administrative body that issued an administrative act or its superior body, or by going directly to administrative court (Article 70). It is not clear if the appellant needs to initiate the procedure in that order or whether s/he is entitled to choose whether to take the case to the court immediately. More importantly, it may be difficult to initiate the appeal within the required period, since Article 60.1 states that the administrative act enters into force on the day after it is delivered to the party. It may be that while the appeal is being considered, the act is already in force. Article 74, however, states that the submission of an appeal has a suspending effect on the administrative act, except in cases prescribed by law, when the administrative act is subject to immediate enforcement. The Administrative Procedure Code<sup>492</sup> regulates the appeals procedure in the administrative court.

The Law contains a "silent consent" clause, stating that the administrative act shall be considered to have been issued after the regular 30-day deadline has passed and that the applicant may then take steps to exercise the right requested (Article 48). However, applying the silent consent rule entails an inherent risk of corruption and should be used with caution. In addition, the Law recognises the right to submit documentation only once; that is, if information required by the administration is already contained in a document that has already been collected, an additional document should not be requested (Article 9). However, such a clause is applicable to a particular administrative procedure, not to the possession of information in general held by any administrative body. Hence, however positive, it does not qualify as a "once-only" clause. Despite such modern clauses, the Law is not wholly conducive to operating in the digital environment. There are numerous references to exclusively paper-based documentation and procedures (i.e. no reference to an electronic delivery option) that contain unnecessary requests for information<sup>493</sup>.

A SIGMA review of selected legal acts showed that some make explicit reference to the LFAAP<sup>494</sup> regulations, while the others do not<sup>495</sup>. This may be because no ministry is fully responsible for the LFAAP

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<sup>489</sup> Article 50 of the Constitution of Armenia.

<sup>490</sup> Article 53 of the Law on the Fundamentals of Administration and Administrative Procedure defines an "interfering individual act" as one in which an administrative body refuses, interferes with or restricts the enjoyment of the rights of a person, imposes an obligation or in any other way renders their legal or factual situation worse.

<sup>491</sup> Law HO-41 on the Fundamentals of Administration and Administrative Procedure of 18 February 2004.

<sup>492</sup> Law No. HO-139-N on the Administrative Procedure Code, adopted on 5 December 2013.

<sup>493</sup> Article 55, for example, refers to the format and standard of paper on which an administrative act is to be issued.

<sup>494</sup> Tax Code (2016), Government Decision No. 596-N of 19 March 2015 On Approving the Procedures of Provision of Permits and Other Documents for the Development, Law on State Registration of Legal Entities, Separated Subsidiaries of Legal Entities, Institutions and Individual Entrepreneurs (2001).

<sup>495</sup> Law on Freedom of Information (2003).

– including the MoJ, which prepared the Law<sup>496</sup>. In effect, there is no central guidance nor attempt to harmonise sectoral laws with the LFAAP. In itself, this is not a problem because Article 2 of the Law states clearly that it applies to any activity of administrative bodies in the field of public law resulting in the issuance of an administrative act. More importantly, no legal act analysed contained special procedural regulation that would have derogated from the LFAAP in an unfavourable manner for an individual.

What appears problematic is the definition of types of administrative acts (Article 53). The LFAAP allows administrative acts also to be directed towards a group of persons classified according to certain individual criteria, therefore derogating from the principle of an individual recipient. In essence, this clause authorises the public administration to issue normative decisions, which is not consonant with international good practices.

The quality of administrative decisions can be measured by the rate of repeals of, or changes to, decisions of administrative bodies made by administrative courts. In Armenia, the rate is relatively high 34%<sup>497</sup>. Furthermore, the Ombudsman's Annual Report 2017 includes the criticism that citizens are not properly informed of administrative decisions, but the scope of this problem is not known<sup>498</sup>. As for the perceived efficiency of administrative proceedings, 52.1% of citizens who had had contact with the administration reported that they had been served in an efficient manner<sup>499</sup>.

Based on the above factors, the value for the indicator on fairness and efficiency of administrative procedure is 4.

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<sup>496</sup> It was not possible to find anyone in the MoJ who is responsible for the stewardship of the Law.

<sup>497</sup> Judicial Department, 24 October 2018.

<sup>498</sup> Ombudsman Annual Report, 2017.

<sup>499</sup> SIGMA-commissioned survey of the general population, conducted in October 2018.

Fairness and efficiency of administrative procedures						
The indicator measures the extent to which the regulation of administrative procedure is compatible with international standards of good administration and good administrative behaviour. This includes both the legal framework for administrative procedure and its practical applications.						
Overall indicator value	0	1	2	3	<b>4</b>	5

Sub-indicators	Points
<b>Legal framework for administrative procedure</b>	
1. Existence of legislation on administrative procedures of general application	3/3
2. Adequacy of law(s) on administrative procedures to ensure good administration	7/7
<b>Fairness and efficiency of administrative procedures</b>	
3. Perceived efficiency of administrative procedures in public institutions by citizens (%)	2/4
4. Repeals of, or changes to, decisions of administrative bodies made by the administrative courts (%)	1/4
<b>Total<sup>500</sup></b>	<b>13/18</b>

**The LFAAP sets all rights to good administration. The Law is not entirely conducive to operating in the digital environment, due to numerous references to paper-based procedures. However, no ministry claims stewardship of the Law. Half of the citizens who had had contact with the administration declared that they had been served effectively.**

**Principle 3: Mechanisms for ensuring the quality of public service are in place.**

There is no single institution that monitors service delivery performance across the public administration. Neither the performance of individual services delivered nor the progress against set objectives in strategic documents is monitored. For example, there is no overview of volume of individual services delivered per channel (digital and otherwise), user satisfaction, complaints received and answered, nor is there an overview of digital services at each phase of maturity. Without such information, based on consistent methodology applied government-wide, it is difficult to know how to set priorities and how to overcome challenges, either common or specific to public bodies. This means that no performance metrics are available on costing service provision, to help assess the economic impact of switching from over-the-counter service provision to digital service provision. The only evidence presented of data being centrally gathered is from the MoJ, which receives quarterly reports from the operators on the volume of each service provided<sup>501</sup>. However, there is no data on quality aspects of service provision.

There is no co-ordinated effort to assist government institutions (or local self-governing bodies) in making service provision efficient and user-friendly. The Government has not introduced quality management in the state administration. Only a few government bodies, such as the MoJ, collect user feedback on satisfaction with court practices, as does the Statistics Committee on user needs of their statistical studies. The Customs Service, on its website<sup>502</sup>, provides an interactive survey for user engagement in the design of its e-services<sup>503</sup>.

<sup>500</sup> Point conversion ranges: 0-3=0, 4-6=1, 7-9=2, 10-12=3, 13-15=4, 16-18=5.

<sup>501</sup> Sample of reports presented by the MoJ.

<sup>502</sup> [www.customs.am](http://www.customs.am).

<sup>503</sup> E-services Interoperability Framework and Building Policy Analyses. Status report of Armenia (2015), *E-Governance Academy of Estonia*.

User engagement and service-related feedback tools are not widely used. Collecting feedback, such as complaints and suggestions, is the main tool to allow for post-service user interaction. Interviews in government bodies reported that such feedback is always brought to the attention of the management.

The interoperability framework is in the piloting phase. The Government Interoperability Platform was adopted in 2015<sup>504</sup>, and a programme to apply it in practice was launched in 2017<sup>505</sup>. EKENG told SIGMA that the objective is to make a few selected registries interoperable with each other by 2020. In the next phase, 25 registries are to become interoperable. In the course of this exercise, the inter-agency commission<sup>506</sup> chaired by the Chief of Staff of the Prime Minister on developing the interoperability platform and one-stop shop external commercial platform has among other functions the role of co-ordinating the review of registers to prevent duplication of data collection. However, there is no central review mechanism to examine the purpose and implementation of government IT projects.

This means that information exchanges between state registries are based on bilateral arrangements approved by the Government. For example, while registering a business, several electronic transactions are needed. The State Registry is connected with the Passport Service in order to load personal data of the applicant and with the State Revenue Committee to send an electronic query to register a taxpayer and obtain the taxpayer number<sup>507</sup> in real time. It is also connected to the Armenian Card payment system<sup>508</sup> for online payment of contributions. Moreover, the registry is connected to all the banks, in order to transfer data on businesses<sup>509</sup>. The hope is to expand the state registry into a business registry, with more data stored, to provide more services based on company-related information<sup>510</sup>. Most of the services are available for a fee<sup>511</sup>.

Digital signature was introduced in 2004. However, the only vehicle for these certificates is the national ID card (introduced under legislation passed in 2011), issued to roughly 1 million citizens and residents of Armenia<sup>512</sup> by the Visa and Passport Department, a division of the police. ID cards are voluntary, and citizens over the age of 16 are entitled to receive one. The cards come equipped with certificates for authentication, but not for providing digital signature. While ID cards are issued by the Visa and Passport Department, the digital signature has to be applied for separately, for a fee, through the EKENG offices. EKENG is also the only certified authority to issue digital signature certificates in the country<sup>513</sup>. Although 1 million ID cards have been issued, only about 80 000 of them carry digital signature certificates<sup>514</sup>. These mainly include officials from enterprises for whom dealing with the government electronically is compulsory. The two-stage application process, combined with the relatively cumbersome installation process of software and the small number of applications for the ID card are the reasons why so few digital signature certificates are in circulation. To overcome these issues, a pilot project for mobile electronic signature (mobile ID) was launched in 2018 to provide an alternative to ID card-based digital

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<sup>504</sup> Government Decision No. 1093-N, 31 August 2015.

<sup>505</sup> Government Interoperability Platform programme under the “EU4Armenia: e-Gov Actions” project started on 8 December 2017, see <https://eeas.europa.eu/delegations/armenia/en/41316/EU4Armenia:%20e-Gov%20Actions>.

<sup>506</sup> Decision of the Prime Minister No. 1456-A of 31 October 2018.

<sup>507</sup> E-services Interoperability Framework and Building Policy Analyses. Status report of Armenia (2015), *E-Governance Academy of Estonia*.

<sup>508</sup> Initiated by Armenian commercial banks and the Central Bank in 2001. See [www.cba.am](http://www.cba.am).

<sup>509</sup> E-services Interoperability Framework and Building Policy Analyses. Status Report of Armenia (2015), *E-Governance Academy of Estonia*.

<sup>510</sup> Interview with the Agency for State Registry of Legal Entities on 26 September 2018.

<sup>511</sup> One service, provision of a blueprint of a building or apartment to its owner, is available free of charge; other services, such as the registration of a new building, registration of a change of ownership of property, registration of an exclusive right for purchasing an apartment or house, or provision of information on possible third-party rights to the property are available for a fee.

<sup>512</sup> There were estimated to be 2.9 million inhabitants in Armenia in 2018.

<sup>513</sup> [www.ekeng.am/en](http://www.ekeng.am/en).

<sup>514</sup> Information provided to SIGMA by the EKENG on 2 October 2018.

signature and thus improve access to both online services of the state and local self-government bodies, as well as to business services<sup>515</sup>.

**Table 2. Year-on-year application for ID cards and digital signature certificates by citizens.**

	2016	2017
Number of applications for ID cards	184 347	193 174
Number of digital signature certificates issued	10 000	16 000

Source: EKENG

Citizens are identified through a unique social security card number, received at birth and recorded in the population registry<sup>516</sup>. This is the identifier that is in principle the main identifier in all the registries where information about the individual is stored. However, there are still occasions on which citizens are required to submit data, such as their passport number and social security card number<sup>517</sup> upon identifying themselves with the ID card, although such data is not strictly necessary, given that it is available to state bodies through the population registry.

Digital documents are equivalent to paper-based documents<sup>518</sup>, but their use is not widespread. Legally, the public administration is under no obligation to receive digitally-signed documents if it does not have the technical means to do so<sup>519</sup>. This reflects the fact that the state is not fully committed to do everything in its power to encourage the use of digital signatures. Nevertheless, there are instances where paper-based documents are required. For example, the monthly reports from the operators referred to above (see Principle 2) are collected on paper, stamped and signed. The transfer to electronic format is anticipated only from 2019<sup>520</sup>.

The value for the indicator on the existence of enablers for public service delivery is therefore 1.

<sup>515</sup> Interview with EKENG, 24 September 2018.

<sup>516</sup> The Law 419-N on State Registry of Population, 24 September 2002.

<sup>517</sup> The Law on State Registration, Article 17.

<sup>518</sup> The Law on Electronic Signature, Article 4.

<sup>519</sup> *Ibid.*

<sup>520</sup> Interview with the MoJ, 25 September 2018.

Existence of enablers for public service delivery						
This indicator measures the extent to which citizen-oriented service delivery is facilitated by enabling tools and technologies, such as public service inventories, interoperability frameworks, electronic signatures and user feedback mechanisms. It evaluates how effective the central government is in establishing and using these tools and technologies to improve the design and delivery of public services.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
<b>Central and shared mechanisms to better enable public service provisions are in place</b>	
1. Central monitoring of service delivery performance	0/3
2. Adequacy of interoperability infrastructure	1/3
3. Existence of common standards for public service delivery	0/3
4. Legal recognition and affordability of electronic signatures	2/3
<b>Performance of central and shared mechanisms for public service delivery</b>	
5. Use of quality-management tools and techniques	0/4
6. Adoption of user engagement tools and techniques	2/4
7. Interoperability of basic registers	1/4
<b>Total<sup>521</sup></b>	<b>6/24</b>

**Monitoring of service delivery performance and of common standards is not well developed. No Government policy on quality management or on the application of user engagement tools in service improvement has been set up. The Government has adopted an interoperability framework and its deployment has just begun. Many registries exchange information on a bilateral basis, sometimes in real time. Digital signature was introduced in 2004, and legislation on ID cards was passed in 2011, but its uptake and usage are limited.**

**Principle 4: The accessibility of public services is ensured.**

Territorial coverage for central government administrative services in general is good. Each administrative service provider has its own network of offices, which mostly are not particularly user-friendly, due to poor physical conditions and work organisation<sup>522</sup>. To improve accessibility to administrative services, there is a Government initiative under way, administered by the MoJ, whereby private operators, such as post offices and banks, are contracted to provide basic administrative services<sup>523</sup>. Currently, 67 services are provided by 9 operators in 126 offices to citizens and businesses, but the goal is to increase the number of services to 260 in two years<sup>524</sup> to cover every city and village, turning the operators into one-stop shops. Minimum requirements to service providers are established, and they are expected to cover the costs of servicing from fees they collect. The initiative is still in its infancy, as demonstrated by the figures in the table below.

<sup>521</sup> Point conversion ranges: 0-4=0, 5-8=1, 9-12=2, 13-16=3, 17-20=4, 21-24=5.

<sup>522</sup> Interview with police officials on 26 September 2018, and focus group meeting on 26 September 2018.

<sup>523</sup> Government Decision 1 109-N on Approval of the List of Operators of the State Bodies Service Offices, Delegation of Activities to the Operators, Approval of the List of Activities, Establishment of the Exemplary Form of the Document on Service Delivery Concluded with the Operator and the Minimum Technical Requirements for the Operator, 27 October 2016.

<sup>524</sup> Interview with the MoJ, 25 September 2018.

**Table 3. List of most used services delivered by the operators in Q1 of 2018**

Service	Number of transactions	Electronic or not
Unified cadastre statement	798	No
Statement on family status	591	No
Statement of non-criminal and non-prosecution record	320	No
State registration of property rights	238	No
State registration of individual entrepreneurs <sup>525</sup>	194	Yes
Confirmation of documents through apostille	121	No
State registration of legal entities	103	Yes
Other 60 services	518	N/A
<b>Total</b>	<b>2 883</b>	

Note: N/A = not available.

Source: MoJ

A few other one-stop shops have also been set up. Registering a business, for example, can be done on a website of the Agency for State Registry of Legal Entities<sup>526</sup>. In 2017, the registration of a birth at the territorial local body of the Civil Acts Registration Agency (CARA) was combined with filling in the childbirth benefit allowance that the CARA provides on behalf of the Social Security Service, so that parents are now only required to make one visit, rather than two. The Government has set up 21 territorial social service centres for one-stop delivery<sup>527</sup>. There is also a central portal<sup>528</sup> for information on administrative services and links to the websites of individual agencies that provide these services, Government session agendas and decisions, and other information. However, no administrator is at present designated to develop the portal and determine the way it is used<sup>529</sup>.

The Ministry of Labour and Social Affairs (MoLSA) is responsible for the policy for people with disabilities. Armenia ratified the UN Convention on the Rights of Persons with Disabilities in 2010, and the Law on Social Protection of Persons with Disabilities has been in place since 1993. The UN Committee issued its

<sup>525</sup> In comparison, the total number of individual entrepreneurs registered in 2017 was 12 785 and the number of limited liability companies 4 443. Source: Report of the Electronic Register 2017, <https://www.e-register.am/am/docs/374>.

<sup>526</sup> [www.e-register.am](http://www.e-register.am).

<sup>527</sup> The Government Decision No. 952-N of 26 July 2012 on Approving the Programme of Introduction of Integrated Social Services System in the Republic of Armenia.

<sup>528</sup> [www.e-gov.am](http://www.e-gov.am).

<sup>529</sup> Interview with the DAF, 27 September 2018.

report on the implementation of the Convention in Armenia in 2017<sup>530</sup>. In 2017, the Government adopted the Programme on Social Inclusiveness of People with Disabilities 2017-21 and Annual Work Plan for 2018. A new Law on the Rights of People with Disabilities is under preparation.

The Decree of the Minister of Urban Development of 2006<sup>531</sup> stipulates that all new buildings or buildings under reconstruction must be accessible to people with disabilities. Also, the Chairperson of the State Urban Development Committee has issued two recent orders in this regard within the scope of 2018 Annual Programme on Social Inclusion of Persons with Disabilities<sup>532</sup>. Unfortunately, these rules have not been respected to the letter; mostly, only access ramps have been installed<sup>533</sup>. No monitoring system has been set up to obtain regular feedback on the situation. The Law on Language<sup>534</sup> stipulates that the teaching and education of persons with hearing and speech impairment is carried out in the Armenian sign language, but this right is not extended to dealing with the administrative bodies. Braille language is not currently recognised by law but may be recognised by the amendments to the Law on the Rights of People with Disabilities. These would impose the obligation for citizens to be serviced in Braille language and strengthen the position of the sign language<sup>535</sup>. In general, there is a lack of professional staff, for example interpreters, translators and web design specialists, to support accessibility for people with disabilities<sup>536</sup>.

Minimum standards for government websites are established<sup>537</sup>, consisting of content, management and security requirements. However, they do not regulate how people with disabilities are able to access them. The UN concludes in its report: “The Committee is concerned that accessibility of information and communication is very limited for persons with disabilities”<sup>538</sup>. Guidelines on accessibility to official websites of government bodies for people with disabilities are in preparation<sup>539</sup>. There is no obligation to comply with recognised international standards such as the Web Content Accessibility Guidelines (WCAG). In testing government websites, SIGMA found that a few are satisfactory, while others have a relatively high rate of errors (more than 30 per website, as compared with an acceptable level of fewer than 20). A study of government websites indicated that the formats used vary too widely in terms of layout, information formats (which are often not machine-readable) and presentation<sup>540</sup>. One unusual administrative peculiarity is that government officials regularly use private e-mail addresses for official purposes.

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<sup>530</sup> United Nations, Convention on the Rights of Persons with Disabilities. Concluding observations on the initial report of Armenia, 8 May 2017.

<sup>531</sup> Order of the Minister of Urban Development No. 253-N, 10 November 2006, on the Accessibility of Buildings and Constructions for Population with Limited Mobility.

<sup>532</sup> State Urban Development Committee Order No. 43-A of 5 April 2018 on approving the set of design rules for accessibility of buildings and structures for population groups with limited mobility and people with disabilities and Order No. 123-L of 15 October 2018 on approving the format for assessment of conditions for access for persons with disabilities in existing buildings and structures of public and industrial significance.

<sup>533</sup> United Nations, Convention on the Rights of Persons with Disabilities. Concluding observations on the initial report of Armenia, 8 May 2017; interview with the MoLSA, 24 September 2018; see also Photo Monitoring of Constitutional referendum, 6 December 2015, viewed 23 October 2018, <http://disabilityinfo.am/14101/>.

<sup>534</sup> Law H.N.-07773-I on Language, approved by the Supreme Council on 30 March 1993.

<sup>535</sup> Draft Law on the Rights of People with Disabilities.

<sup>536</sup> United Nations, Convention on the Rights of Persons with Disabilities. Concluding observations on the initial report of Armenia, 8 May 2017; interview with the MoLSA, 24 September 2018.

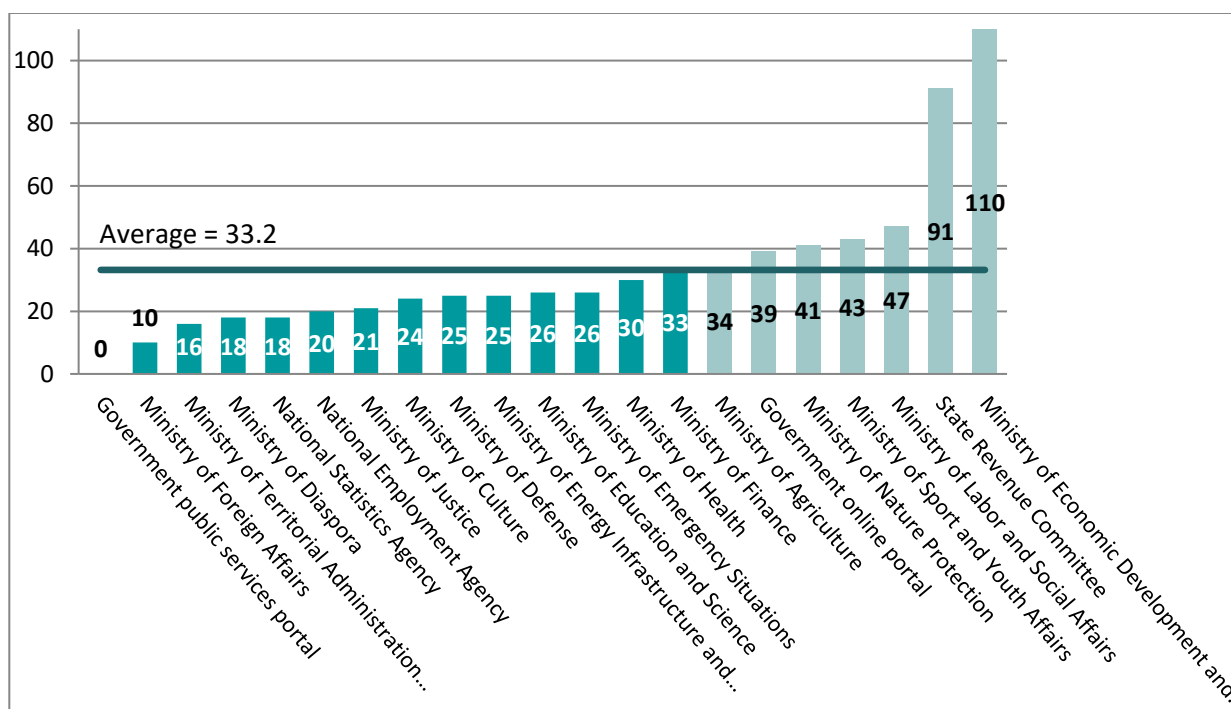
<sup>537</sup> Government Decision No. 1 521-N of 26 December 2013, amended on 26 February 2014, on Approval of Minimum Requirements for the Official Websites of State Bodies Online.

<sup>538</sup> United Nations, Convention on the Rights of Persons with Disabilities. Concluding observations on the initial report of Armenia, 8 May 2017.

<sup>539</sup> Annex N2 to Government Protocol Decision No. 1 on Approval of the 2017-21 Comprehensive Programme of Social Integration of Persons with Disabilities and Measures Ensuring the Implementation of the Programme, 12 January 2017.

<sup>540</sup> Kolba Lab website: <http://kolba.am/en/post/open-data-government-armenia/>.

**Figure 1. Government website compliance with WCAG (number of errors per website), 2018**



Source: SIGMA tests of government website compliance with WCAG, October 2018.

Armenia has declared that it intends to make government data available in an open-data format<sup>541</sup>. However, there is no institution specifically responsible for open data<sup>542</sup>, or any central government website for open datasets. In co-operation with partners, the most notable progress has been made in converting budget-related information into open data format. There is no intention to continue with open data in the Open Government Partnership Fourth Action Plan<sup>543</sup>, but the DTAA includes the objective of creating an open data policy.

Satisfaction with the digital services provided by central government institutions is 47%, and satisfaction with general public services across the country 51.7%<sup>544</sup>; 42.3% of respondents report that the time involved in accessing public services is not an issue for them, and 35.2% have the same response as regards the price of public services<sup>545</sup>.

The value for the indicator on accessibility to public services is 2.

<sup>541</sup> Armenia's Open Government Partnership Third National Action Plan 2016-18, [https://www.opengovpartnership.org/sites/default/files/Armenia\\_NAP3\\_2016-18\\_0.pdf](https://www.opengovpartnership.org/sites/default/files/Armenia_NAP3_2016-18_0.pdf).

<sup>542</sup> Interview with the OPM on 24 September 2018.

<sup>543</sup> Ditto.

<sup>544</sup> SIGMA-commissioned survey of the general population, conducted in October 2018. The percentage of people who were "mostly satisfied" or "completely satisfied".

<sup>545</sup> Ditto. Percentage of respondents who answer 4 or 5 on a scale of 0-5.

Accessibility of public services						
This indicator measures the extent to which the access to public services is promoted in policy formulation and implementation. It evaluates whether this policy framework leads to measurably easier access for citizens, measures citizens' perceptions of accessibility to public services and tests the actual accessibility of government websites. Dimensions covered are territorial access, access for people with disabilities and access to digital services.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
<b>Policy framework for accessibility</b>	
1. Existence of policy for the accessibility of public services	2/3
2. Availability of statistical data on accessibility to public services	2/4
3. Adequacy of policy framework for public service users with special needs	1/4
4. Existence of common guidelines for government websites	0/2
<b>Government performance on accessibility</b>	
5. Compliance of government websites with Web Content Accessibility Guidelines (WCAG)	0/3
6. Perceived satisfaction with public services across the territory by population (%)	2/3
7. Perceived accessibility of digital public services by population (%)	1/3
8. Perceived time and cost of accessing public services by citizens (%)	0.5/3
<b>Total<sup>546</sup></b>	<b>8.5/25</b>

Accessibility to simple administrative services is improving, thanks to the extended network of private operators that are providing citizens an expanded number of services. Only a few services can now be obtained from electronic one-stop shops, mostly for businesses. A Government policy is in place on improving access to government services for people with disabilities, but it has not so far been very effective. As for website accessibility, basic standards have been set, but these have not helped to harmonise government websites. The Government does not require that WCAG standards be met.

<sup>546</sup> Point conversion ranges: 0-4=0, 5-8=1, 9-12=2, 13-16=3, 17-20=4, 21-25=5. SIGMA uses a rounding up convention when the total number of points for an indicator includes 0.5 points.

### **Key recommendations**

#### **Short-term (1-2 years)**

- 1) The Government should expand on the service transformation agenda to improve the quality and accessibility to administrative services, as well as general simplification of administrative procedures and set specific objectives in this area. This entails a decision on the leading institution of service delivery reform that should be properly staffed and empowered to guide other institutions in transforming individual and cross-departmental services into user-friendly ones.
- 2) The Government should install an effective monitoring system of service delivery improvements to capture basic data such as: the number of services delivered per channel (digital and analogue); more advanced data on the progress of sophistication of digitalised services; user satisfaction; and adherence to standards.
- 3) The Government should introduce a policy on user engagement into service delivery improvement on a regular basis. That would allow feedback on the quality and accessibility of existing services, and actively engage users to discuss their needs and requirements for service (re)design and simplification. The introduction of quality assurance tools and techniques would complement well the effort to constantly improve service provision and gear the organisational procedures and systems accordingly.
- 4) The Government should fully commit to bringing increasingly more registers to an interoperability platform. Particular attention should be paid to data quality assurance and elimination of unnecessary and duplicative data in various registries. A meta-registry may need to be created along with installing an *ex ante* review of any amendments to existing registries (technological updates and data fields).
- 5) The Government should promote the uptake of digital signature by developing exemplary digital services that could be used with it, but also find ways to co-operate with the private sector (such as banks, utility companies, telecommunications) using the same platform for accessing their services. Applying for and using digital signature should be simplified making it appealing and convenient for users by introducing mobile-phone based options.
- 6) The Ministry of Labour and Social Affairs should set up a comprehensive monitoring and evaluation system over implementation of regulations in regard to accessibility to services for people with disabilities.

#### **Medium-term (3-5 years)**

- 7) The Government should initiate a targeted review of legislation to identify bottle-necks and obstacles to functioning of the administration in the digital environment. Key laws, such as the LFAAP and the Law on Electronic Signature, but also special laws should be revised or developed to reinforce the application of the 'once only' principle, eliminate the requirements for excessive document submissions by citizens and businesses, and equalise the use of digital documents with paper-based documents. Such an exercise should be conducted by combining the legal, technological and business process re-engineering skills to achieve the best results.
- 8) The Government should reinforce the central co-ordination, monitoring and review function over government information and communications technology investments by introducing central business case reviews. By establishing the function of CIO, the Government would institutionalise the focal point of the digital government transformation and create the hub which could be utilised for guiding other agencies in choosing and applying suitable technologies and associated work processes.

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## Public Financial Management

## PUBLIC FINANCIAL MANAGEMENT

### 1. STATE OF PLAY AND MAIN DEVELOPMENTS: JANUARY 2017 – DECEMBER 2018

#### 1.1. State of play

The legal and operational framework for implementing public financial management (PFM) is established. The public finance sector is comparatively small and fluctuates around 26% of gross domestic product (GDP)<sup>547</sup>. Economic growth in 2017 was 7.5%, with forecasts for 2018, 2019 and 2020 of 4.5%, 5.3% and 5.5% respectively. The Medium-Term Expenditure Framework (MTEF) for 2019–2021 provides for a general Government deficit of 2.7% in 2018, and 2.3% in both 2019 and 2020<sup>548</sup>. However, there are no plans within the Government to balance the general government budget in the near future.

The ratio of government debt to GDP outturn was 53.7% in 2017, but it is expected to reach 54.2% of GDP in 2018. The Government forecasts that it will decrease to 51.6% in 2021, but it is still too early to say whether this decrease is achievable<sup>549</sup>.

A Medium-Term Budgetary Framework (MTBF) called the MTEF, has been developed and covers a three-year period, but it is based on central government data and the reliability of medium-term forecasts needs to be improved.

There is no legal framework specific to Financial Management and Control (FMC). The Ministry of Finance (MoF) does not know how FMC is developing because there is no regular monitoring of progress in this area. The legal framework for internal audit (IA) is in place and operational. However, the IA profession in the public sector is still at a developmental stage.

Reflecting the need to meet diverse international obligations, public procurement is undergoing frequent, although somewhat superficial, changes to adjust to the requirements of the new Constitution and improve the economy, efficiency and transparency of the system. The new Government, in place since May 2018, has made reform of PFM one of its linchpins of economic and social development, underlining the importance of public procurement.

As a party to the Government Procurement Agreement (GPA) under the World Trade Organization since 15 September 2011, Armenia must apply international standards for public procurement. The efforts to do so have received renewed impetus through the Comprehensive and Enhanced Partnership Agreement (CEPA) between the European Union (EU) and Armenia, signed on 24 November 2017, in which public procurement is covered in Chapter 8. However, Armenia has been a member of the Eurasian Economic Union since 2 January 2015, and this has created overlapping and partly conflicting obligations regarding the regulatory and institutional framework and public procurement practices.

Public procurement is currently regulated by the Public Procurement Law (PPL) adopted on 16 December 2016, Government Decree No. 526-N of 4 May 2017 and several other pieces of secondary legislation. Although a number of its provisions reflect obligations under the Treaty on the Eurasian Economic Union, the PPL broadly corresponds to international practice, with the organisation of the review system being one important exception. The shortcomings of the system in Armenia lie as much in the application as in the PPL Law itself.

In September 2018, public procurement was being carried out by some 600 contracting authorities, but that number was dropping due to an administrative reorganisation. The importance of the economic impact of public procurement is widely recognised. However, the objectives of economy, efficiency and transparency in public procurement are put into question by the weakness of the local supply market,

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<sup>547</sup> MTEF 2019–2021, p. 14.

<sup>548</sup> MTEF 2019–2021, p. 85.

<sup>549</sup> Public Debt Management Strategy for 2019–2021, p. 21.

indications of lack of procurement skills in many contracting authorities, and concerns about the integrity of the procurement processes.

Concessions and other public-private partnerships (PPPs) are not yet comprehensively and specifically regulated.

The Supreme Audit Institution (SAI), the Audit Chamber (AC), is anchored in the Constitution. The 2018 Law on the Public Audit Chamber<sup>550</sup> (the AC Law) is an improvement on the 2006 Law on the Chamber of Control<sup>551</sup> but it does not define the AC's independence, mandate and access to information well. The audit activities of the AC do not yet comply with international standards. The core of the AC audit work is still a form of compliance audit, with a focus on defining irregularities. The development of performance and financial audit is still in its infancy. Guidance has been developed for financial and compliance audit but staff training on the new audit approaches and the development of quality control and assurance systems are lacking.

## 1.2. Main developments

The Government has been making efforts recently to implement PFM reforms. These developments are driven by the Public Financial Management Strategy (PFM Strategy) for 2016–2020. This Strategy represents the second stage of PFM reforms and follows the first phase of reforms implemented under the PFM Strategy for 2010–2014.

According to the provisions of the PFM Strategy, the Government is planning to introduce fully-fledged programme budgeting. Programme budgeting was launched as part of the budget system in 2004, but it has been running for a long time as a pilot exercise. Amendments to the Law on the Budgetary System<sup>552</sup> have introduced legally binding provisions regarding programme appropriations and the draft budget for 2019 has been presented and approved by the National Assembly using programme budget classifications as the main budget format.

In 2017 new fiscal rules were introduced into the PFM system and implemented in 2018. The new rules provide restrictions on budget expenditure and a number of other measures to be taken depending on the level of public debt<sup>553</sup>.

A fiscal risk assessment division was established by order of the MoF<sup>554</sup>. Subsequently an operational road map to enhance the assessment of fiscal risks was approved by order of the MoF, which clarified the functions performed by the fiscal risk assessment division<sup>555</sup>. Currently the division is in charge of monitoring the debt obligations of state-owned enterprises (SOEs) but it is planned that its monitoring activities will be expanded.

The PFM Strategy includes objectives and activities for developing a legal framework for FMC and for revising the IA methodology and improving the professional skills of internal auditors. The Strategy is to be implemented with donor support.

Since January 2017, principal developments in the public procurement system include the following:

- Following the entry into force of the new PPL (90 days after its promulgation on 14 January 2017), several decrees were issued by the Government and the MoF to regulate key details of the

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<sup>550</sup> Law on Public Audit Chamber, adopted on 16 January 2018, in force 9 April 2018.

<sup>551</sup> Law on Chamber of Control, adopted by the National Assembly on 25 December 2006 (ratified on 9 June 2007).

<sup>552</sup> Law on the Budgetary System, 24 June 1997, amended by HO-541-N of 11 April 2003, HO-224-N of 24 October 2007, HO-45-N of 30 April 2013, and HO-304-N 14 December 2017, Chapter 6.1.

<sup>553</sup> Government Decree No. 942-N, 23 August 2018, on the introduction of ceilings on growth in and the aggregate amount of current expenditure in the composition of next year's state budget expenditure in the draft law on the state budget for the forthcoming year, exceptional cases and the debt reduction programme of the Government.

<sup>554</sup> MoF Order No. 1/814-A, 20 December 2014.

<sup>555</sup> MoF Order No. 448-A on approving a road map for the enhancement of fiscal risks assessment and formation of liable sub-divisions, 31 August 2017.

application of the PPL Law. These mainly concerned the workings of the e-procurement system and the form, contents and use of standard documents.

- The review system was changed again in March 2018, when the former review body was abolished as a statutory entity and replaced by “review persons” at the MoF<sup>556</sup>. The two people serving on the review body at the time of its abolition were immediately reinstated in their new role as review persons. There were only minor changes to the procedures for lodging complaints and the day-to-day work of the persons concerned.
- The PPL now covers selection of the private partner in a PPP. A draft law specific to PPPs was adopted by the Government in the beginning of September 2018 and should be presented to the Parliament in autumn 2018.

The AC is in a transition phase. The AC Law came into force on 9 April 2018 and brought about a major shift in its mandate from inspection and control to audit. The AC staff are currently being trained in the new approaches of financial, compliance and performance auditing, which are compliant with the International Standards of Supreme Audit Institutions (ISSAIs). In order to identify opportunities for further development, the AC has carried out a self-assessment based on the SAI Performance Measurement Framework (SAI-PMF) methodology of the International Organisations of Supreme Audit Institutions (INTOSAI), which will feed into a new Strategic Development Plan 2019–2022.

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<sup>556</sup> Law on Making Amendments and Addenda to the Republic of Armenia Law on Procurement, adopted on 23 March 2018, with entry into force on 9 April 2018.

## 2. ANALYSIS

This analysis covers seven Principles for the public financial management area, grouped under three key requirements. It includes a summary analysis of the indicator(s) used to assess against each Principle, including sub-indicators<sup>557</sup>, and an assessment of the state of play for each Principle. For each key requirement, short- and medium-term recommendations are presented.

### Budget management

**Key requirement: The budget is formulated in compliance with transparent legal provisions and within an overall multi-annual framework, ensuring that the general government budget balance and the debt-to-gross domestic product ratio are on a sustainable path.**

The values of the indicators assessing Armenia's performance under this key requirement are displayed below.

Indicators	0	1	2	3	4	5
Quality of the medium-term budgetary framework			◆			
Quality of the annual budget process and budget credibility				◆		

Legend: ◆ Indicator value

### Analysis of Principles

**Principle 1: The government publishes a medium-term budgetary framework on a general government basis that is founded on credible forecasts and covers a minimum period of three years; all budget institutions operate within it.**

The Law on the Budgetary System establishes the requirement for an MTBF, called the MTEF, to be prepared. The Law set outs requirements for the contents and structure of the MTEF<sup>558</sup> and its place within the annual budget process<sup>559</sup>. The Government approves a three-year MTEF annually by 10 July<sup>560</sup> and submits the approved document to the National Assembly. However, the submission is purely formal and there are no deliberations on the MTEF at the parliamentary level, including at the budget and finance committee. This weakness undermines the ability of the National Assembly to understand the Government's intentions for the coming budget year and in the medium term.

The MTEF document is well developed at both the macro and budget policy levels and meets the requirements set out in the Law on the Budgetary System. However, the Law<sup>561</sup> does not require the MTEF to be based on general government fiscal aggregates. Therefore, the MTEF only provides a medium-term perspective for central government budget policy. Moreover, some special funds of budgetary institutions (fees and charges) are not yet included in the MTEF, although in the 2019 annual

<sup>557</sup> OECD (2018), *Methodological Framework for the Principles of Public Administration: ENP Countries*, OECD, Paris, <http://www.sigmaweb.org/publications/Methodological-Framework-for-the-Principles-of-Public-Administration-ENP-Countries-May-2018.pdf>. This methodology is a further developed detailed specification of indicators used to measure the state of play against the Principles of Public Administration.

<sup>558</sup> Law on the Budgetary System, Article 15.

<sup>559</sup> *Idem*, Article 21.

<sup>560</sup> *Idem*, Article 21.

<sup>561</sup> *Idem*, Article 15.

budget they have been included in the annual budget for the first time. According to the information provided by the MoF, the amount of extra-budgetary funds is approximately AMD 28 billion, which is about 2% of total expenditure.

Policy information presented in the MTEF includes very detailed and technical data. However, it tends to only present aggregated information (summaries, tables and charts) on general government budget revenue and expenditures, and it is not clearly linked to sectoral strategies.

The MTEF establishes annual ceilings for first-level budget organisations over the period of the MTEF. The ceilings are by functional classification and are broken down to a very detailed budgetary expenditure level, although they do not cover the maintenance costs of public institutions. The level of detail for the ceilings and input control during the preparation of budget requests by budget organisations increases the bureaucratic burden and may affect the effectiveness of the programme budgeting that is to become a legal requirement from 2019.

Despite the efforts being taken to strengthen the credibility of the MTEF, the process of medium-term budget planning is not yet completely reliable, as illustrated in Table 1.

**Table 1. MTEF 2015–2017 revenue and expenditure forecast for 2017 vs. outturn (AMD billion)**

	Revenue	Expenditure
Forecast	1 306.4	1 414.3
Outturn	1 237.8	1 504.8
Variance	-5.3%	+6.4%

Source: MoF

The difference between the revenues approved in 2015 for 2017 and the outturn was -5.3%, and the difference between the planned and actual expenditure was 6.4%. These deviations led to the 2017 budget deficit being more than double to that planned in 2015 for the same year.

The Government is making an effort to strengthen fiscal sustainability. At the end of 2017, amendments to the Law on the Budgetary System and the Law on State Debt introduced new fiscal principles and rules along with mechanisms for monitoring and enforcement that are detailed in Government Decree No. 942<sup>562</sup>.

The Government Decree<sup>563</sup> requires specific actions to be taken depending on the debt level. For example, if the Government debt outturn is between 50% and 60% of GDP the decree requires increases in aggregate budget expenditure to be restricted to not more than the nominal GDP increase over the last seven years and an action plan presented in the MTEF to gradually reduce the debt level to below 50% in the next 5 years. If Government debt outturn is above 60%, the decree provides for other measures, such as planned current expenditure, being equal to the budget revenue forecast<sup>564</sup>.

The introduction of new fiscal rules is a significant step forward in maintaining a prudent fiscal policy and addressing the challenges of debt growth, and there are clear mechanisms to enforce them. However, since the enforcement mechanisms are related to the debt outturn of the previous year, there is a risk

<sup>562</sup> Government Decree No. 942-N.

<sup>563</sup> *Ibid.*

<sup>564</sup> It states that if, as of 31 December of the previous year, the Government debt ratio to the GDP of the previous year was within the range 50–60%, the Government shall present an action plan in the MTEF to gradually bring the projected path of the Government debt level below 50% in the upcoming 5 years; if the Government debt is above 60%, the Government shall submit an action plan on gradually bringing the projected debt level below 60% in the upcoming 5 years for consideration by the Standing Committee on Financial, Credit and Budget and Economic issues of the National Assembly.

they will not be sufficient if there are unforeseen economic shocks or economic recession in the case of further implementation of a pro-cyclical fiscal policy.

In light of these factors, the value for the indicator assessing the quality of the medium-term budgetary framework is 2.

Quality of the medium-term budgetary framework						
This indicator measures how well the medium-term budgetary framework (MTBF) is established as a fiscal plan of the government, focusing on the process of budget preparation and four areas that influence the quality of the budget documents. A good MTBF should increase transparency in budget planning, contribute more credible forecasts and ultimately lead to a better general government budget balance.						
Overall indicator value	0	1	<b>2</b>	3	4	5

Sub-indicators	Points
1. Strength of the medium-term budgetary framework	6/11
2. Strength of the fiscal rules	2/4
3. Credibility of medium-term revenue plans (%)	2/4
4. Credibility of medium-term expenditure plans (%)	2/4
<b>Total<sup>565</sup></b>	<b>12/23</b>

**The MTEF is well established, both in legislation and as a medium-term budget strategy. However, it is a central government strategy rather than a general government strategy, with the sub-national level not adequately presented, and there is a lack of reliability in some of the forecasts. The MTEF is an established part of the annual budget process, but it is not discussed in the National Assembly.**

*Principle 2: The budget is formulated in line with the national legal framework, with comprehensive spending appropriations that are consistent with the medium-term budgetary framework and are observed.*

The Law on the Budgetary System determines the process for establishing the annual budget, including its structure and content. According to the legislation<sup>566</sup>, the draft state budget is composed of the Budget Message of the Government and the draft Law on the State Budget. In addition, the draft state budget includes an explanatory note aiming to justify the revenues, expenditures, deficit and other financial data related to the draft budget.

The annual budget process starts with the approval of the government decree on the Start of Budgetary Process of the Republic of Armenia<sup>567</sup>. The decree establishes the budget calendar and the two phases of the budget process. The first phase defines the steps to be taken in order to draft the MTEF and the second the elaboration of the draft annual budget. The budget calendar is comprehensive and covers the entire process from drafting the macroeconomic forecast to submission of the draft state budget to the National Assembly.

The ceilings for drafting the budget proposals become available to line ministries following the Government's approval of the MTEF. According to the legislation, and in practice, this takes place by 10 July and line ministries then have until 4 August to prepare and submit their budget requests, and then discuss and negotiate budget plans with the MoF and the Government.

<sup>565</sup> Point conversion ranges: 0-4=0, 5-8=1, 9-12=2, 13-16=3, 17-20=4, 21-23=5.

<sup>566</sup> Law on the Budgetary System, Article 16.

<sup>567</sup> Government Decree No. 1559-A, 29 December 2017.

Legal provisions and actual implementation confirm a top-down approach for drafting the MTEF and the annual budget within the established timetable. However, there is scope to improve the consistency between the two publications. The MTEF 2018–2020<sup>568</sup> forecast state budget revenue in 2018 of AMD 1 353 billion, while in the 2018 state budget AMD 1 308 billion was approved. With respect to expenditure the same MTEF forecast AMD 1 510 billion, while in the state budget AMD 1 465 billion was approved. The revenue and expenditure deviation is 4% and 3% respectively.

There is room for improvement in the reliability of revenue and expenditure forecasts in the annual budget. Table 2 highlights that the outturns for both revenues and expenditure in 2015 and 2016 deviated from the plans in the state budget, with expenditures increasing and revenues decreasing. The year 2017 showed further deterioration of the reliability of revenue and expenditure plans.

**Table 2. Reliability of revenue and expenditure plans in 2015, 2016 and 2017**

Revenue (AMD billion)			
	Originally planned in the state budget	Outturn	Variance
<b>2015</b>	1 191.5	1 167.7	-2%
<b>2016</b>	1 186.3	1 171.1	-1.3%
<b>2017</b>	1 210.0	1 237.8	2.3%
Expenditure (AMD billion)			
	Originally planned in the state budget	Outturn	Variance
<b>2015</b>	1 305.6	1 409.0	7.9%
<b>2016</b>	1 377.0	1 449.1	5.2%
<b>2017</b>	1 360.1	1 504.8	10.6%

Source: Annual Budget Law for 2015, 2016 and 2017; [www.minfin.am/en/page/en\\_chart](http://www.minfin.am/en/page/en_chart).

Budgeting for capital investment projects is weak. Although the provisions of the Law on the Budgetary System<sup>569</sup> define the basic requirements for the financing of capital expenditures, in fact, according to the information provided by the MoF, there are no established rules and procedures for the budgeting and management of capital investment projects. Foreign development partners largely finance public investments according to funding agreements. The line ministry in charge conducts the initial discussions with donors for the funding of specific investment projects. During the implementation of investment projects, so called “management centres of credit financing projects” in line ministries have information available about the relevant projects. Overall, the process of capital budgeting represents a “bottom-up” approach and there is a risk that targeted availability of funding will prevail over the Government’s investment priorities during the selection of investment projects.

The PFM Strategy for 2016–2020<sup>570</sup> also confirms that “many decisions on investments are not clearly connected to sectoral strategies and recurrent costs are included in the state budget only in some cases”.

<sup>568</sup> MTEF 2018–2020, page 76, Table 4.4.

<sup>569</sup> Law on the Budgetary System, Article 14.

<sup>570</sup> PFM Strategy 2016–2020, Annex 2, approved by Protocol No. 2 of the Government of Armenia on 18 February 2016.

The procedure for the scrutiny of the draft budget in the Parliament is well established and defined by the Law on the Budgetary System and by the Rules of Procedure of the National Assembly. According to the legislation, the draft budget is to be presented to the National Assembly at least 90 days prior to the beginning of fiscal year.

In light of these factors, the value of the indicator assessing the quality of the annual budget process and budget credibility is 3.

Quality of the annual budget process and budget credibility						
This indicator analyses the process of budget preparation and the level of transparency and quality of the budget documents. Quality parameters include the link between the multi annual and annual budget, the budget preparation process, selection of priorities for new expenditures, comprehensiveness and transparency of budget documentation, scrutiny and oversight of the budget proposal and rules for in-year budget adjustment.						
Overall indicator value	0	1	2	<b>3</b>	4	5

Sub-indicators	Points
1. Operational alignment between the MTBF and the annual budget process	3/4
2. Reliability of the budget calendar	3/4
3. Transparency of the budget proposal before its adoption in parliament	4/8
4. Quality in the budgeting of capital investment projects	2/5
5. Parliamentary scrutiny of the annual budget	3/5
6. Transparency and predictability of procedures for in-year budget adjustments	3/4
7. Credibility of revenue plans in the annual budget (%)	3/4
8. Credibility of expenditure plans in the annual budget (%)	2/4
<b>Total<sup>571</sup></b>	<b>23/38</b>

**The annual budget process is well established and operates within a clearly defined schedule. However, the credibility of the state budget should be improved. Capital budgeting is weak, with the MoF not playing an adequate role in this process in terms of resource identification and prioritisation of investments.**

<sup>571</sup> Point conversion ranges: 0-6=0, 7-13=1, 14-20=2, 21-26=3, 27-32=4, 33-38=5.

**Key recommendations**

**Short-term (1–2 years)**

- 1) The MoF should incorporate the existing off-budget funds into the MTEF.
- 2) The MoF should improve the annual budget documentation by including information on long-term projections for the largest expenditure areas.
- 3) The MoF should improve the MTEF document in terms of aggregated figures for the general government.

**Medium-term (3–5 years)**

- 4) The MoF should initiate the MTEF discussions in the National Assembly prior to the submission of the draft state budget.
- 5) The MoF should strengthen its role and mandate in the area of capital budgeting.

**Key requirement: Accounting and reporting practices ensure transparency and public scrutiny over public finances; cash, assets and debt are managed centrally, in line with legal provisions.**

The values of the indicators assessing Armenia's performance under this key requirement are displayed below.

Indicators	0	1	2	3	4	5
Reliability of budget execution and accounting practices					◆	
Quality of public debt management					◆	
Transparency and comprehensiveness of budget reporting and scrutiny				◆		

Legend: ◆ Indicator value

### **Analysis of Principles**

**Principle 3: The central budget authority (or authorised treasury authority) centrally controls disbursement of funds from the treasury single account and ensures cash liquidity.**

Article 14 of the Law on the Treasury System provides for a Treasury Single Account (TSA) and stipulates that all funds for central government and community agencies are to be deposited in the TSA. The TSA is established at the Central Bank of Armenia (CBA) and all receipts and payments are made through the TSA. The accounts of public non-commercial organisations were not linked to the TSA, but following Government Decree No. 706<sup>572</sup>, all these accounts were linked to the TSA by 1 December 2018.

Revenue transfer to the TSA is defined by Government Decree No. 706 and is executed on a daily basis. All central government's bank balances are consolidated daily according to an agreement on account maintenance between the CBA and the MoF. There are suspense accounts for salary payment, however these accounts are cleared within a couple of days.

The Law on the Budgetary System requires the Government to set the quarterly figures for execution of the state budget within 45 days from the entry into force of the State Budget Law<sup>573</sup>. According to the Law on the Treasury System<sup>574</sup> the MoF (Treasury) shall ensure "the preparation of daily, weekly, monthly and quarterly cash flow management programmes", harmonised with the state budget execution quarterly figures. The MoF in fact produces weekly, monthly, quarterly, and annual cash flow forecasts on the basis of historical data; the budget organisations are not greatly involved in their development. However, it is important to note that, in addition to financial data, non-financial indicators are included, which is a positive development and creates opportunities for results management and efficient expenditure costing. On the other hand, these may be impeded by the excessive detail of cash flow profiles, which are broken down into very detailed economic classifications.

The budget classification system is based on the International Monetary Fund (IMF)'s Government Finance Statistics Manual (GFSM) 2001 and includes economic, functional and administrative classification. A four-level functional classification creates the appropriation framework. Separate segments identify such policy measures as services, subsidies, capital transfers and financial assets. These programme segments are stated in Chapter 6.1 of the Law on the Budgetary System. From an

<sup>572</sup> Government Decree No. 706 on Procedure of Budget Execution, 15 June 2018.

<sup>573</sup> Law on the Budgetary System, Article 23.

<sup>574</sup> Law on the Treasury System, Article 11.

international perspective, programme budgets are classified by programme and sub-programme/activity, with the aim of achieving specific objectives (outcomes). An IMF report in October 2013<sup>575</sup> noted that the existing policy-measure segments “duplicate information provided through economic classification”, and this will need to be addressed by 2019, when programme budgeting will be required by law.

Expenditure arrears do not pose a problem. The basis for managing the risk of arrears arising is the Law on Procurement which stipulates that procurement contracts covering more than one budget period cannot be concluded on the basis of annual earmarked allocations unless earmarked resources are available for the following period<sup>576</sup>. The budget execution procedures<sup>577</sup> cover the control of the commitments of budget organisations by the MoF, while the Law on the Treasury System requires that the MoF prepares a summary of state and community budget arrears<sup>578</sup>. However, information on expenditure arrears is not included in the budget implementation reports or published.

In light of these factors, the value of the indicator assessing the reliability of budget execution and accounting practices is 4.

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<sup>575</sup> IMF (2013), *Armenia: Advancing the Public Financial Management Reform Agenda*.

<sup>576</sup> Law on Procurement, Article 15.

<sup>577</sup> Government Decree No. 706.

<sup>578</sup> Law on the Treasury System, Article 12.

Reliability of budget execution and accounting practices						
<p>This indicator measures the quality of cash and commitment management, controls in budget execution and accounting practices. These aspects ensure reliable information on government spending and thus a foundation for management decisions on government funds.</p> <p>Effective cash flow and planning, monitoring, and management of commitments by the treasury facilitate predictability of the availability of funds for budgetary units. Reliable accounting practices that include constant checking and verification of the recording practices of accountants are important to ensure good information for management.</p>						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. Presence of a treasury single account (TSA)	2/2
2. Frequency of revenue transfer to the TSA	1/1
3. Frequency of cash consolidation	1/1
4. Credibility of cash flow planning	0.5/2
5. Budget classification and chart of accounts	2/2
6. Frequency of bank-account reconciliation for all central government bank accounts	2/2
7. Availability of data on the stock of expenditure arrears	0/2
8. Expenditure arrears (%)	2/3
<b>Total<sup>579</sup></b>	<b>10.5/15</b>

**The TSA is established and functioning. However, some accounts of non-commercial public entities have still to be linked to the TSA. The MoF prepares cash flow forecasts, however they are based on historical data and not on information received from budget organisations. Budget classification is defined on the GFSM 2001 basis, but programme classification needs to be revised in order to harmonise it with economic classification.**

***Principle 4: There is a clear debt management strategy in place and implemented so that the country's overall debt target is respected and debt-servicing costs are kept under control.***

Public borrowing is governed by the Law on State Debt<sup>580</sup> and the Law on Local Governance<sup>581</sup>. The Law on State Debt defines public debt as the debt held on behalf of the Republic of Armenia and the CBA. The Law on Local Governance regulates community borrowing, which requires MoF permission. It should be noted that the general Government debt definition provided by the legislation does not include local borrowing. In this respect, public debt is not in line with System of National Accounts (SNA) definitions.

Two bodies, the MoF and the CBA, can issue debt and are appointed by law as public debt managers<sup>582</sup>. The CBA may choose to issue their own securities primarily to neutralize the liquidity effects of operations such as the purchase of foreign exchange reserves, for monetary policy objectives. The objectives of debt management policy and monetary policy sometimes contradict each other, and a lack co-ordination between the MoF and the CBA may lead to complications. However, there is collaboration between the MoF and the CBA on the basis of an agreement signed in 2008, under which the CBA does

<sup>579</sup> Point conversion ranges: 0-1=0, 2-4=1, 5-7=2, 8-10=3, 11-13=4, 14-15=5. Rounded up to 11 to calculate the point conversion. SIGMA uses a rounding up convention when the total number of points for an indicator includes 0.5 points.

<sup>580</sup> Law on State Debt, No. HO-78-N, 5 July 2008.

<sup>581</sup> Law on Local Governance, No. HO-237-N, 7 May 2002.

<sup>582</sup> Law on State Debt, Article 11.

not issues treasury bills. Instead, if the CBA has a requirement the MoF organises the issue of debt and deposits the proceeds with the CBA. With respect to central government debt management, only the MoF can undertake borrowing<sup>583</sup>.

The MoF produces a medium-term debt management strategy, which is updated annually. On 10 July 2018 the Government approved the current 2019–2021 Debt Management Strategy. The scope of the Strategy is linked to the central Government debt, including guarantees issued by the Government. The Strategy also discusses debt-servicing risks linked to the existing portfolio of government debt and sets out risk mitigation and financing strategies. The Strategy includes some risk and sensitivity analysis and medium-term debt management objectives. The Strategy does not discuss the debt of the CBA<sup>584</sup>, and local government debt is not considered in the Strategy because it is marginal.

The ratio of public debt to GDP in the period 2015–2018 increased from 48.7% in 2015 to 58.9% in 2017, and has subsequently decreased to 55.7% in 2018<sup>585</sup>. The ratio of government debt to GDP for 2018 was 51.3 against a forecast of 54.2%. The government debt is forecasted to be 54.1%, 53.2% and 51.6% in 2019, 2020 and 2021 respectively<sup>586</sup>.

**Table 3. Forecast government debt indicators for 2018–2021**

	2018 budget	2019 forecast	2020 forecast	2021 forecast
Government debt (AMD billion)	3 172	3 588	3 869	4 126
Debt to GDP (%)	54.2	54.1	53.2	51.6

Source: Debt Management Strategy 2019–2021, p. 7.

At the end of 2017, 81.6% of public debt was foreign debt. The CBA's share of foreign debt for the same period was 10.9% of public external debt. The Debt Management Strategy includes an objective to decrease the share of foreign debt to 78.5% by 2021. The share of foreign debt with a fixed interest rate is about 79.7%, but the Strategy forecasts that this will decrease to 71.3% in 2021, leading to an increase in the interest rate risk.

At the end of 2016 the ratio of government debt to the previous year's GDP reached 52.2% breaching the threshold of 50% defined in the Law on State Debt. This led to the 2017 state budget deficit being planned at less than 3% of the average GDP over the last three years, based on the fiscal constraints defined in the Law on State Debt. Consequently new, stricter fiscal rules were introduced through legislation in December 2017<sup>587</sup>.

Government debt is reported monthly and annually and published via the website of the MoF<sup>588</sup> within one month. The annual debt report is published no later than three months after the end of the relevant fiscal year.

In light of these factors, the value of the indicator assessing the quality of public debt management is 4.

<sup>583</sup> Law on State Debt, Article 17.

<sup>584</sup> Debt Management Strategy 2019–2021, p. 3: "The scope of the strategy is limited only to the Government debt, including guarantees issued by the Government. The analysis does not include the RA Central Bank's external debt, which is assumed on behalf of and by CBA."

<sup>585</sup> Data derived from the MoF website: [www.minfin.am/en/page/en\\_chart/](http://www.minfin.am/en/page/en_chart/).

<sup>586</sup> Debt Management Strategy 2019–2021, p. 6.

<sup>587</sup> Government Decree No. 942-N.

<sup>588</sup> [www.minfin.am/en/page/reports\\_and\\_statistics1/](http://www.minfin.am/en/page/reports_and_statistics1/).

Quality of public debt management						
This indicator measures the procedures and organisation established for the management of public debt and the outcomes achieved, in terms of debt risk mitigation practices, the share of public debt to gross domestic product (GDP), and the difference between public sector debt outturn and target.						
Overall indicator value	0	1	2	3	<b>4</b>	5

Sub-indicators	Points
1. Existence of requirements and limitations for borrowing in the legal framework	2/3
2. Existence and minimum content of a public debt management strategy	4/4
3. Clarity of reporting on public debt	3/4
4. Risk mitigation in the stock of public debt	3/6
5. Difference between public sector debt outturn from target (%)	3/3
6. Public debt as a share of GDP (%)	2/2
<b>Total<sup>589</sup></b>	<b>17/22</b>

**Legislation on public debt management is in place, however issues exist with respect to the definition of public debt according to the SNA 2008, and the role and functions of the CBA in issuing and managing debt. The Government has implemented new fiscal rules to support debt management but it is too early to assess whether these will ensure that public debt is on a sustainable path.**

***Principle 5: Transparent budget reporting and scrutiny are ensured.***

The MoF publishes<sup>590</sup> reports on budget implementation on a monthly, quarterly and annual basis. Monthly reports are based on cash flow data and the quarterly reports include data on budget outturn, based on functional and economic classification. Only the annual report presents data for each individual agency. The MoF in-year reports provide no clear and relevant information about individual agencies or future expenditure commitments. These limitations restrict analysis by agencies of in-year budget implementation. The in-year reports are published within a month of the reporting period.

The MoF also publishes detailed monthly and quarterly reports on macroeconomic and fiscal statistics and borrowing, along with quarterly reports on the financial activity of extra-budgetary funds. The MoF website also provides quarterly summary reports on local government budget implementation. However, data on payroll, capital expenditure, lending, borrowing and arrears are not provided in these summary reports.

The Law on the Budgetary System requires the Government to produce an annual report and submit it to the National Assembly by 1 May of the following fiscal year<sup>591</sup>. The report must contain information on any changes in the fiscal policy and the corresponding legal framework affecting the implementation of the state budget; justification for the state budget deficit/surplus and trend analysis; spending from the Government's contingency fund; foreign and domestic debt and debt servicing; and the achievement of targets by state bodies.

The quality of the annual report on the implementation of the 2017 state budget is adequate. The annual report contains the main report on the implementation of the state budget, along with annexes on expenditures by economic and operational classification, revenues and the deficit. The annexes provide the detailed variations from the original budget allocation, with explanations provided in the main report. The annual report contains comprehensive non-financial performance information, though it lacks an

<sup>589</sup> Point conversion ranges: 0-2=0, 3-7=1, 8-12=2, 13-16=3, 17-19=4, 20-22=5.

<sup>590</sup> [www.minfin.am/en/page/state\\_budget\\_report/](http://www.minfin.am/en/page/state_budget_report/).

<sup>591</sup> Law on the Budgetary System, Article 25.

analysis of assets and liabilities, including state guarantees and other contingent liabilities, and reporting on fiscal risks.

According to the Law on the Budgetary System<sup>592</sup>, the AC must submit its opinion on the annual budget implementation to the National Assembly, including an assessment of the credibility of the figures reflected in the annual report and an assessment of compliance with the requirements of the Law on the State Budget.

The new Law on Public Accounting entered into force on 1 January 2015. The Law stipulates that all public bodies shall apply the Armenia Public Sector Accounting Standards (APSAS)<sup>593</sup>. The APSAS are accruals-based and based on International Public Sector Accounting Standards. The APSAS are being revised but at this time do not provide data compliant with the SNA 2008.

The MoF, in co-operation with Asian Development Bank, recently launched the monitoring of fiscal risks. The relevant order of the Ministry was approved in August 2017<sup>594</sup>. The Division for the assessment of fiscal risks is responsible for the assessment of fiscal risks in the activities of SOEs, companies providing regulated public services, companies receiving loans, guarantees and subsidies from the budget, as well as PPPs. However, its current powers and mandate are weak. According to reports received from the SOEs, identified risks are included in the budget documentation (MTEF and state budget) and presented to the National Assembly. However, the process ends at this stage with no follow-up and, consequently, no risk mitigation.

In light of these factors, the value of the indicator assessing the transparency and comprehensiveness of budget reporting and scrutiny is 3.

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<sup>592</sup> Law on the Budgetary System, Article 25.

<sup>593</sup> Law on Public Accounting, Article 2.

<sup>594</sup> MoF Order No. 448-A.

### Transparency and comprehensiveness of budget reporting and scrutiny

This indicator measures the extent to which the government facilitates external monitoring of the execution of the budget through the publication of relevant information, as well as the credibility of that information and whether it is used effectively to ensure accountability. The degree of budget scrutiny on the basis of the published information is also assessed.

Overall indicator value 0 1 2 **3** 4 5

Sub-indicators	Points
<b>Comprehensiveness of published information</b>	
1. Quality of in-year reports of government revenue, expenditure and. borrowing	3/7
2. Quality of the annual financial report of the government	6/7
3. Quality of annual reports of state-owned enterprises, extra-budgetary funds and local government	3/5
4. Clarity of national accounting standards and consistency with international standards	2/4
5. Existence of reporting on fiscal risks identified in the budget	0/1
<b>Scrutiny and oversight using published information</b>	
6. Quality of the annual financial reporting on the use of public finances	3/3
7. Timeliness of submission of the SAI report to parliament	2/2
8. Timeliness of parliamentary discussion on the report of the SAI	3/3
<b>Total<sup>595</sup></b>	<b>22/32</b>

**In-year reporting is well established and published, but monthly and quarterly reports lack information on individual agencies. The annual report on the state budget implementation is comprehensive and adequate. The APSAS are established and operational, although they do not yet provide data compliant with SNA 2008. The establishment of the Fiscal Risks Assessment Division in the MoF is welcomed, but the functions of this division are limited and its mandate is weak.**

#### **Key recommendations**

##### **Short-term (1–2 years)**

- 1) The MoF should include information on individual agencies in the monthly and quarterly reports on budget implementation.
- 2) The MoF should publish at least annually information on the level of arrears.
- 3) The MoF should strengthen the role and mandate of its Fiscal Risks Assessment Division with regard to the follow-up of fiscal risks.

##### **Medium-term (3–5 years)**

- 4) The MoF should relax input control to help budget institutions to attain the goals defined during the implementation of their budgets.
- 5) The MoF should initiate amendments to the Law on the Budgetary System in terms of the revision of programme classification.
- 6) The MoF should initiate revision of the Law on State Debt in terms of the definition of public debt according to SNA 2008.

<sup>595</sup> Point conversion ranges: 0-7=0, 8-12=1, 13-17=2, 18-22=3, 23-27=4, 28-32=5.

## Internal control and audit

**Key requirement: A policy for internal control, including internal audit, is applied throughout the public administration.**

The values of the indicators assessing Armenia's performance under this key requirement are displayed below.

Indicators	0	1	2	3	4	5
Adequacy of the operational framework for internal control and its functioning in practice		◆				
Adequacy of the operational framework for internal audit and its functioning in practice			◆			

Legend: ◆ Indicator value

### Analysis of Principles

**Principle 6: The operational framework for internal control defines responsibilities and powers, and its application is implemented by general budget institutions in line with the overall internal control policy.**

FMC is regulated by various laws to set out the management organisational structures and accountability mechanisms, such as the Laws on the Budget System, the Treasury System, Public Sector Accounting and the Civil Service. However, there is no specific legal framework for FMC, although its development was part of the PFM Strategy 2010–2014. In 2011, using external support, an FMC law was drafted but was not adopted. During an EU twinning project between the MoF and the Swedish National Financial Management Authority<sup>596</sup> that mainly focused on the introduction of managerial accountability, the 2011 draft FMC law was amended and secondary legislation on internal control components was developed. However, these have not been adopted either.

The PFM Strategy was revised in 2016<sup>597</sup>. It concluded that the existing PFM legislative acts do not always consider the general effectiveness and efficiency issues of FMC and a general law combining all FMC issues was lacking. The Strategy seeks to establish an effective FMC system in 2018 through a wide range of activities, such as the development of a methodology for introducing FMC and piloting this in at least two public sector organisations, the revision and clarification of the FMC concept and the drafting of a law based on the piloted methodology. It is planned that after adoption of the FMC law in 2019 it will be implemented over the period 2019–2020<sup>598</sup>.

Accountability mechanisms between ministries and their subordinated organisations are not effective. Subordinated organisations are not required to prepare standalone annual plans – they only provide input to ministerial plans. As a result, there is an absence of objectives and targets specific to the subordinated organisations and ministries generally do not monitor the basic performance of subordinated organisations in practice. This leaves large parts of the state administration operating without effective performance monitoring.

<sup>596</sup> "Strengthening the Regulatory and Institutional Framework of Public Internal Financial Control (PIFC) and Supporting the Central Harmonisation Unit in Its Role of Operationalizing the New Systems in the Republic of Armenia", September 2014–September 2016.

<sup>597</sup> PFM Strategy 2016–2020.

<sup>598</sup> PFM Strategy 2016–2020.

In 2017, external experts conducted a gap analysis of the current FMC system<sup>599</sup>, which identified many issues in the system. Managerial accountability is not developed. Based on an analysis of five institutions, the extent of delegation of authority for signing off on a range of processes and procedures, such as small-scale procurement, approval of staff leave requests and requests for information by the public, is non-existent. Decision making is overly centralised as most routine decisions need to be formally taken by the Secretary General, the Deputy Minister or the Minister.

There is no systematic and documented approach towards risk management. First line managers only report risks to IA units, which incorporate the information received into a risk matrix for their own audit-planning purposes.

The gap analysis also observed that first line managers regard financial management (and financial control) in general as the responsibility of finance departments. Finance departments and control and monitoring departments do not yet provide a broad support function for first line management. In general, the experts concluded that structures are in place on paper but awareness of FMC needs to be created, and that, with programme budgeting being introduced in 2019, there needs to be a change in managerial tasks, responsibilities and accounting obligations. Based on the gap analysis, an FMC Manual has been developed by a local expert that will start to be piloted in two public sector organisations by the end of 2018<sup>600</sup>.

The existing legislation does not require first-level budget organisations to report to the PFM Methodology Department of the MoF on progress of the implementation of internal control. Consequently, the MoF does not have information on the state of play on the development of internal control within the public administration. The PFM Methodology Department only reports annually to the Government on the implementation of the scheduled activities in the PFM Strategy 2016–2020.

According to the MoF under the Law on the Budgetary System, the management and budget structures of first-level budget organisations are aligned<sup>601</sup>. However, we were not able to confirm that they are clearly aligned<sup>602</sup>.

In 2010 a Client–Treasury system was introduced which enables the online management of treasury accounts. The client is able to independently input the budget programme estimate, the timetable for execution of financial commitments, the agreement extract or certificate, budget submissions and payment documents, upon which the compliance of these documents to the legislation is assessed online and financial commitments are registered or denied. The state budget expenditure funding process was fully computerised in 2012–2013, which increased the effectiveness and accuracy of the functions, as well as accountability and resource management<sup>603</sup>. The 2001 Law on the Treasury System<sup>604</sup> sets out the *ex ante* control of the financial activities of public institutions and the execution of state and community budgets, and the 2018 budget procedure<sup>605</sup> sets out how payments and deadlines are to be taken into account. Hence, the Treasury system provides controls to ensure that financial commitments can only be made when both the budget and funding are available. In 2017, these controls worked to prevent any arrears.

A significant number of first-level budget organisations (60) report directly to Parliament. Within this category, 36 organisations are not ministries or constitutional bodies<sup>606</sup>.

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<sup>599</sup> Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH (GIZ) FMC Gap analysis: Status quo of the current system of Internal Control in the public sector of the Republic of Armenia, November 2017.

<sup>600</sup> Information PFM Methodology Department of the MoF.

<sup>601</sup> Law on the Budgetary System, Article 16.

<sup>602</sup> Insufficient data provided.

<sup>603</sup> PFM Strategy 2016–2020, Annex 1, paragraph 4.4.

<sup>604</sup> Law on the Treasury System, Article 17.

<sup>605</sup> Government Decree No. 706.

<sup>606</sup> Data provided by the MoF.

Budget organisations report to the MoF monthly regarding the cost of major investment projects<sup>607</sup>, but there is no evidence that they report on the physical progress of these projects.

The Budgets Execution Reporting Department of the MoF is responsible for guiding and co-ordinating the reporting and follow-up of deviations in respect of national budget funds. However, for first-level budget organisations there are no procedures for reporting on irregularities and suspected fraud, and consequently the number of reported irregularities is not available<sup>608</sup>.

Due to there being no effective regulatory framework, limited implementation and no monitoring of internal control development, the value for the indicator assessing the adequacy of internal control is 1.

#### Adequacy of the operational framework for internal control and its functioning in practice<sup>609</sup>

This indicator measures the extent to which the operational framework for internal control (financial management and control) is established, in terms of policy and strategic content, the regulatory framework, and adequate review and reporting mechanisms.

The indicator also measures the extent to which internal control systems are implemented in practice within the budget institutions and between ministries and their subordinate institutions, and the immediate results in terms of improved managerial responsibility and governance arrangements between ministries and subordinated bodies.

Overall indicator value 0   **1**   2   3   4   5

Sub-indicators	Points
1. Existence of policy for the development of internal control	4/6
2. Completeness of the regulatory framework for internal control	0/5
3. Comprehensiveness and regularity of the annual review and reporting on internal control	0/5
4. Number of first-level budget institutions that are neither ministries nor constitutional bodies	0/3
5. Alignment between management and budget structures (%)	0/3 <sup>610</sup>
6. Credibility of controls for avoiding commitments above the expenditure ceilings	2/2
7. Availability of reporting of total cost and physical progress of major investment projects	0/2
8. Effectiveness of basic managerial accountability mechanisms for central government bodies	0/4
9. Delegation of decision-making authority within ministries	1/4
10. Regularity and completeness of risk management practices	0/3
11. Existence of reporting on irregularities	0/2
<b>Total<sup>611</sup></b>	<b>7/39</b>

<sup>607</sup> Regulation for Credit Financing Projects Management Centers, 1998.

<sup>608</sup> Information provided by the MoF.

<sup>609</sup> Also defined as FMC in the national laws and strategies, as well as in the documents related to Chapter 32 of the EU accession negotiations.

<sup>610</sup> This value is due to insufficient data being received.

<sup>611</sup> Point conversion ranges: 0-6=0, 7-13=1, 14-20=2, 21-27=3, 28-34=4, 35-39=5.

**There is no specific legal and operational framework for FMC in place. Important financial management tools such as delegation of decision-making authority and systematic risk management are lacking. The state of play of the development of FMC in the public administration is not monitored periodically. The PFM Strategy 2016–2020 includes measures to develop the framework for FMC and its application at the organisational level.**

*Principle 7: The operational framework for internal audit reflects international standards and is applied consistently by government institutions.*

The Law on Internal Audit<sup>612</sup> (IA Law) provides a sound legal framework for the development of IA. The IA Law defines the mandate, scope, authority, responsibility and reporting relationship of IA in central and local government. The Law defines an almost unlimited scope of work for IA, saying that all activities in the field of FMC are subject to IA review<sup>613</sup>.

IA charters had been prepared and approved by the Head of the Institution for the sample of organisations examined, in line with the template and guidelines set out in the MoF's 2012 Order<sup>614</sup>. The charters include the lists of audit objects IA units are authorised to audit ('audit universe'). That implies that in the event of reorganisations, the charters will have to be adapted to the new organisational structures. For the sample examined, however, the charters have not regularly been updated.

Although the functional independence of IA is largely guaranteed, its financial independence is not. Audit engagements are not budgeted for, and if the audit engagement requires a business trip, the Chief of Staff needs to authorise the trip.

In 2017 there were a total of 233 IA functions in operation<sup>615</sup>. IA units were established in 54 public administration bodies and 43 local government bodies. In 136 communities the IA function was outsourced to private companies. The PFM Methodology Department does not have information about how many IA functions should exist according to the IA law, in other words there is no information how many institutions have established an IA unit yet<sup>616</sup>. There are criteria for setting up IA units<sup>617</sup>. Ministries need to have IA units of at least three staff members, and other public organisations should have IA units of at least two staff members. Communities with more than 15 000 inhabitants need to have two staff members and other communities need to have one staff member or, by mutual agreement, the IA functions can be performed by the IA unit of the parent body or another community. The annual report on the IA System<sup>618</sup> does not include information about whether all established IA units comply with the criteria, but all IA units of the sample organisations examined complied with these requirements. In 2017 there were 50 communities that had not established an IA unit or outsourced the IA function<sup>619</sup>.

Further development of IA is guided by the PFM Strategy 2016–2020. The main objectives are to improve the professional skills of internal auditors and to revise the IA methodology. Actions to achieve this include developing a capacity development programme, revising the training programmes for ongoing professional training of auditors, improving the effectiveness of management feedback on audit work and co-operation between internal and external audit. All actions of the Action Plan<sup>620</sup> are to be driven

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<sup>612</sup> Law on Internal Audit No. HO-17-N, 22 December 2010.

<sup>613</sup> IA Law, Chapter 2, Article 4.

<sup>614</sup> MoF Order on Approving the Regulation Model Form of Internal Audit and Features of Its Preparation Procedures.

<sup>615</sup> 2017 report on the Internal Audit System in the Public Sector of the Republic of Armenia, according to Article 13.4 of the 2010 IA Law.

<sup>616</sup> Information provided by the PFM Methodology Department.

<sup>617</sup> MoF Order No. 165-N, 23 February 2013, on Establishing the Main Requirements for the Internal Audit Department and Internal Audit Committee.

<sup>618</sup> 2017 report on the Internal Audit System in the Public Sector of the Republic of Armenia, according to Article 13.4 of the 2010 IA Law.

<sup>619</sup> *Ibid.*

<sup>620</sup> Action Plan 2016-2020 of Public Finance Management System Reforms, Protocol Decision No. 6 of the Republic of Armenia Government Session, 18 February 2016.

by the PFM Methodology Department rather than involving IA units and their organisations. Formal reporting on PFM Strategy<sup>621</sup> progress shows that three of four planned actions for 2016 and 2017 were completed.

Internal auditors are guided in their work by a detailed IA manual<sup>622</sup> that requires risk-based planning and encourages systems-based auditing. It includes extensive template documents such as audit charters, audit plans and audit working papers to guide staff through their work. The manual is utilised through an automated information system (AIS), which has been developed locally. The software contains a register of the audit universe and risk scores are brought into the system. The audit plan, the audit work programme, the audit working papers and the audit report are all linked together through the AIS. It gives the PFM Methodology Department the opportunity to monitor IA activities throughout all public institutions. In practice auditors perceive the AIS as inflexible and find working on paper more practical<sup>623</sup>. For example, if the audit plan has to be changed during the year, the whole plan has to be deleted and the new plan inserted. In 2017 a handbook for systems-based auditing was developed with donor support<sup>624</sup>.

Internal auditors should follow the mandatory MoF certification programme<sup>625</sup>. An increasing number of internal auditors are qualified, with 88% holding national or international certificates.

**Table 4. Number of Internal Auditors**

	2015	2016	2017
<b>Total</b>	284	285	292
<b>Qualified</b>	224	245	258
<b>In training</b>	60	40	34

Source: 2017 Report on the Internal Audit System in the Public Sector of the Republic of Armenia, according to Article 13.4 of the 2010 IA Law.

Qualified internal auditors are also obliged to undertake a minimum of 30 hours training per year, after which they must sit a test. If auditors do not participate in the mandatory training during the year or do not manage to pass the test, they are considered to have failed the training and their certificate becomes invalid<sup>626</sup>. It is highly unusual and against the spirit of continuous professional development that training participants are tested and can lose their certification in the event of not passing the tests.

There are no formalised meetings with the Heads of IA units, organised by the PFM Methodology Department. Internal auditors may at any time bring up different issues of their concern in accordance with the prescribed procedures (by sending letters to the authorised body), such as methodological, procedural issues, and issues related to rights and obligations. The Heads of IA units only come together if donors organise workshops.

<sup>621</sup> MoF reporting 'Satisfactory progress in the implementation of the programme to improve public finance management (PFM).

<sup>622</sup> MoF Order No. 143-N to Approve the Development Guidelines of the Internal Audit Manuals and Internal Audit Regulations for the Public Sector of the Republic of Armenia, 17 February 2012.

<sup>623</sup> Feedback of IA units of sample organisations.

<sup>624</sup> MoF IA Handbook No. 711-A on Public Financial Management in Support of the South Caucasus, 3 August 2017.

<sup>625</sup> Government Decree No. 176-N on Approving the Procedure for Internal Auditors' Qualification and Requirements of Public Organisations for Internal Audit, 13 February 2014.

<sup>626</sup> MoF Order No. 541-N on Approving the Continuous Professional Training Procedure for Internal Auditors, 21 August 2014.

The IA Standards<sup>627</sup> and IA Manual<sup>628</sup> elaborate on the requirements of quality control and assurance. A 2013 Government Decision on quality control and assurance of IA work<sup>629</sup> regulates the quality control within IA units and the external quality assurance by the PFM Methodology Department. The standards give high importance to the quality of IA work and every IA unit should have a quality programme in place consisting of ongoing supervision, periodic internal quality assessment and periodic independent external assessment. The external review of IA units by the PFM Methodology Department is in development and is being piloted in two organisations with the support of a World Bank project. The sub-indicator value below reflects the fact that this project has not finished and that less than five institutions have been reviewed so far.

All IA units are required to prepare strategic and annual plans by means of the AIS<sup>630</sup>. Within the sample organisations examined, the style and level of complexity of these plans follow the national legal requirements, though not fully. They each cover risks, but not the objective, scope and type of the audits.

The objective of the PFM Strategy 2016–2020 is to improve IA work by focusing more on the effectiveness of internal control systems by means of systems-based auditing rather than on compliance work by means of transaction-based auditing. The table<sup>631</sup> below highlights that the number of traditional compliance audits has decreased considerably in 2016 and 2017 compared with 2015. However, the number of systems-based audits has not increased to a similar extent. This may indicate that the new types of audits require more time to deliver a good quality audit report. In the sample of organisations reviewed only traditional compliance audits were represented.

**Table 5. Types of audits performed**

	2015	2016	2017
<b>Systems evaluation audit</b>	714	720	655
<b>Performance audits</b>	26	66	52
<b>Information Technology audits</b>	2	3	5
<b>Traditional compliance audits</b>	637	289	265

Source: 2017 Report on the Internal Audit System in the Public Sector of the Republic of Armenia, according to Article 13.4 of the 2010 IA Law.

The IA Manual lays out the procedures for IA units to follow up<sup>632</sup> on the implementation of recommendations agreed with auditees. The guidance appropriately recognises that some recommendations will take longer to implement than others, so time limits are to be agreed with the auditee rather than prescribed, but progress should be assessed in the following audit year.

<sup>627</sup> MoF Order No. 974-N on Approving the Methodology Instructions of Applying the Internal Audit Professional Activities Standards of the Republic of Armenia, 8 December 2013, Chapter 1.

<sup>628</sup> MoF Order No. 143-N to Approve the Development Guidelines of the Internal Audit Manuals and Internal Audit Regulations for the Public Sector of the Republic of Armenia, 17 February 2012.

<sup>629</sup> Government Decree No. N896-N on Approving the Procedures of the Organisation's Internal Audit System Evaluation by Persons not Related to the Organisation's Activities for the Purpose of Ensuring the Quality of the Organisations' Internal Audit, as well as of Co-operation of Internal Audit with Inspecting Bodies and External Audit Body, 8 August 2013.

<sup>630</sup> IA Manual, Chapters 2200 and 2300.

<sup>631</sup> 2017 Report on the Internal Audit System in the Public Sector of the Republic of Armenia, according to Article 13.4 of the IA Law.

<sup>632</sup> IA Manual, Chapter 71.

Due to there being limited IA capacity, no effective quality assurance system and fact that the types of audits being undertaken are still under development, the value for the indicator assessing the adequacy of internal audit is 2.

Adequacy of the operational framework for internal audit and its functioning in practice						
This indicator measures the extent to which the operational framework for internal audit (IA) has been established, assessing the adequacy of the regulatory framework, the institutional set-up, and co-ordination and quality assurance mechanisms. The indicator also measures the extent to which internal audit is implemented and whether activities effectively contribute to improved management of public finances within the budget organisations.						
Overall indicator value	0	1	<b>2</b>	3	4	5

Sub-indicators	Points
1. Adequacy of the regulatory framework for internal audit	5/5
2. Organisational capacity for internal audit	2/5
3. Co-ordination, development and guidance of the internal audit system	2/5
4. Existence of a system for quality assurance for internal audit	1/3
5. Strength of planning of internal audit in budget organisations	2/6
6. Quality of audit reports	1/6
7. Follow-up and implementation of audit recommendations (%)	3/3
<b>Total<sup>633</sup></b>	<b>16/33</b>

The legal and operational framework for IA is in place, but there is some uncertainty as to whether organisations have set up IA units when required to and whether staffing levels are in line with those legally required. Training programmes for internal auditors are operational. The PFM Strategy seeks to improve the professional skills of internal auditors and revise the IA methodology by introducing systems-based and performance auditing. While the number of operational IA functions and staffing has not changed overall, the number of audit assignments performed has fallen. It is difficult to conclude whether the quality of IA work has progressed. The new types of audit may require more time to deliver a quality audit report. The MoF has begun to implement a system for quality assurance of IA.

<sup>633</sup> Point conversion ranges: 0-4=0, 5-10=1, 11-16=2, 17-22=3, 23-28=4, 29-33=5.

**Key recommendations**

**Short-term (1–2 years)**

- 1) The MoF should develop an FMC legal framework that includes provisions for the delegation of decision-making authority and risk management according to the Committee of Sponsoring Organizations (COSO) principles.
- 2) The MoF should introduce annual reporting by central government institutions on progress made in the development of FMC and action taken to improve FMC.
- 3) The MoF should introduce regular reporting on the physical progress of major investment projects.
- 4) The MoF should include key performance indicators in the annual report on IA, along with indicators on whether the legal requirements have been fulfilled for establishing and staffing IA units and IA planning and reporting.
- 5) The MoF should reconsider the need to test participants in continuous professional development training.
- 6) The MoF should review the quality and compliance with legal requirements of the annual planning of IA units and the reporting on audit assignments.

**Medium-term (3–5 years)**

- 7) The MoF should introduce training programmes for financial officers of central government institutions on implementing new FMC legislation.
- 8) The MoF should initiate and facilitate a network of the heads of internal audit units.

## Public procurement

**Key requirement: Public procurement is regulated by duly enforced policies and procedures, ensures an independent, transparent, effective and efficient remedies system, and is supported by suitably competent and adequately resourced institutions**

The values of the indicators assessing Armenia's performance under this key requirement are displayed below.

Indicators	0	1	2	3	4	5
Quality of legislative framework for public procurement and PPPs/concessions				◆		
Central institutional and administrative capacity to develop, implement and monitor public procurement policy effectively and efficiently			◆			
Independence, timeliness and competence of the complaints handling system			◆			
Efficiency, non-discrimination, transparency and equal treatment practiced in public procurement operations		◆				
Availability and quality of support to procuring entities and economic operators to strengthen professionalisation of procurement operations			◆			

Legend: ◆ Indicator value

### **Analysis of Principles**

***Principle 8: Public procurement regulations (including public private partnerships and concessions) are aligned with internationally recognised principles of economy, efficiency, transparency, openness and accountability, and are duly enforced; there is central institutional and administrative capacity to develop, implement and monitor procurement policy effectively and efficiently.***

The public procurement legislation is comprised of the PPL, as complemented in applicable respects by the Civil Code and Government decrees regulating a number of practical public procurement issues. The main items of secondary legislation cover the public procurement process<sup>634</sup> (also listing the items to be procured by “closed periodic tenders”, with the corresponding contracts constituting a kind of framework agreement), e-procurement in general<sup>635</sup>, and e-auctions in particular<sup>636</sup> (also listing the items to be procured using e-auctions).

The most recent amendments to the PPL, adopted on 23 March 2018, do not fully align with the GPA and seem to violate the CEPA in certain respects. This is the case of the review system (see also under Principle 9), where the set-up does not meet the requirements for independence. Utilities are not defined as such in the PPL, although there are provisions regulating the procurement activities of all entities that normally would be considered utilities<sup>637</sup>. The scope of competitive procurement is further reduced by the addition (in Decree No. 526-N) of a long list of items that may be obtained through single-source procurement, purportedly for reasons of “special or exclusive rights”<sup>638</sup>.

<sup>634</sup> Decree No. 526-N of 4 May 2017.

<sup>635</sup> Decree No. 386-N of 6 April 2017.

<sup>636</sup> Decree No. 534-N of 18 May 2017.

<sup>637</sup> PPL, Article 2.1. (22), “relevant activities”.

<sup>638</sup> Decree No. 526-N, section 23 (4).

Decree No. 526-N also changes the provisions of the PPL in other respects, by adding further requirements for submission and evaluation and by mixing selection and evaluation criteria in a way that limits the freedom of contracting authorities to determine the most favourable tender<sup>639</sup>.

The PPL covers central, regional and local authorities and all kinds of procurement contracts. Initially, the new Law was not fully applied, as several key items of secondary legislation were not adopted until well after the Law entered into force. Until the new implementing regulations were adopted, the old ones were used, as applicable. Likewise, application of the Law has not been fully facilitated by related information and training activities at early stages.

For the application of various provisions and procedures, the PPL defines monetary thresholds as multiples of a “procurement base unit”<sup>640</sup>, currently set at AMD 1 million<sup>641</sup>. There is no direct reference to the thresholds of the GPA.

For contracts with a value below the base unit, contracting authorities can proceed with single-source procurement. Relevant documentation must be kept available<sup>642</sup>.

Time limits for submission of tenders (open or restricted tendering) are higher for contracts with a value more than 200 times the base unit (40 days for open tenders and 30 days for closed tenders) than for contracts below that threshold (15 days). Requests for participation must be submitted no less than 15 days after the publication of a notice, if the value of the contract exceeds 70 times the base unit, and 5 days if the contract is below that value<sup>643</sup>. The same limits apply to participation in electronic auctions<sup>644</sup>. Thus, the time limits do not fully match the requirements of the GPA.

The set of procedures to be used is limited. Tendering is stated to be the preferred procedure. Open tendering is the basic approach, while restricted tendering can be applied under certain conditions defined by the Law. The use of negotiations is generally prohibited<sup>645</sup>, except under specific circumstances defined by the Law and in the case of two-stage tenders for items where alternatives may exist and a precise specification cannot be given at the outset<sup>646</sup>. Procurement of defence- and security-related items is required to be done by restricted tendering<sup>647</sup>. Electronic auctions are considered to be a separate, specific procedure<sup>648</sup>. For procurement of contracts of a value below 70 times the base unit, the use of price quotations is possible, if the items concerned do not appear on the list of items to be procured by electronic auction<sup>649</sup>. Single-source procurement is possible only in limited, defined cases<sup>650</sup>. Design contests or the like are not regulated, and there is no light regime for social and other specific services.

Except under specific conditions set out in the PPL, procurement plans and contract notices must be published in advance, as provided under the respective procedures. The notices must include a full range of relevant details<sup>651</sup>. Contract award notices must also be published, and contracting authorities are obliged to provide information and reports to the MoF without delay.

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<sup>639</sup> *Idem*, section 91.

<sup>640</sup> PPL, Article 2.1. (21).

<sup>641</sup> Approximately EUR 1 800.

<sup>642</sup> PPL, Articles 23.1. (4), 52.1. (2), 9. 1. and 9.3.

<sup>643</sup> *Idem*, Articles 24.1. (2) and (3).

<sup>644</sup> *Idem*, Article 40.1.

<sup>645</sup> *Idem*, Article 38.

<sup>646</sup> *Idem*, Article 19.

<sup>647</sup> *Idem*, Article 21.1.

<sup>648</sup> PPL, Article 18.1.

<sup>649</sup> *Idem*, Article 22.1.

<sup>650</sup> PPL, Article 23.

<sup>651</sup> *Idem*, Article 27.2.

Procurement is, in principle<sup>652</sup>, open to any economic operator that meets the qualification criteria and is not subject to compulsory exclusion (for which the criteria are set out in the PPL<sup>653</sup>). However, Article 61(1) of Decree No. 526-N of 4 May 2017 provides for an additional requirement to submit evidence of having performed a similar contract. Such a condition strongly limits competition by restricting entrance to the public procurement market for both Armenian and foreign companies. This seems to clearly contradict the requirements of Article 6.4 of the PPL as well as those of Article VIII.2 (a) of the GPA.

A blacklisting system is in place<sup>654</sup>, according to which all economic operators are excluded if they: 1) have violated any obligation leading to the cancellation of their contract or their exclusion from the procedure; 2) have refused to sign a contract after it has been awarded to them; or 3) have withdrawn from the procedure after opening of the tenders. This general, automatic exclusion does not seem to match the requirement set out in Article VIII.4 of the GPA that exclusions be proportionate and considered by the contracting authority in the context of a specific procurement procedure. In addition, economic operators must be excluded if they are blacklisted in any other member country of the Eurasian Economic Union. The review persons may also pronounce exclusion as a sanction following an upheld complaint.

Requirements, specifications and award criteria must be set out in the tender documents in a fair and non-discriminatory way, and the selection and award procedure must follow the rules and conditions set out.

PPP operations, including concessions, are not regulated, except that the PPL requires that its provisions must be used for the “granting of rights to a private sector partner” in that context. The PPL also provides, in very general terms, that the Government must separately define corresponding transactions and their descriptions and regulate their drafting and approval. However, there are no other provisions specific to the public procurement aspects of PPPs/concessions, in either the PPL nor other legislation. A draft PPP Law was prepared and approved by the Government in September 2018 but, as of the end of November, it had not yet been adopted by the Parliament.

Based on these shortcomings in scope and alignment with the GPA, the value of indicator for the quality of the legislative framework for public procurement and PPPs/concessions is 3.

Strategies for public procurement do not exist to any extent and, consequently, there is no application and monitoring. Thus, no operational action or similar plan for the development of public procurement is in place for the moment.

The MoF has general competence to supervise public procurement and, complementing the data accessible in the e-procurement system, contracting authorities are required to provide inputs for an annual report, which regularly addresses a number of strategic issues in public procurement. However, in the absence of any explicit strategy and action plan, there is no corresponding monitoring.

In the course of the preparation of the draft PPP Law, the Government prepared a separate policy paper on PPPs, which was issued in November 2017.

There is some institutional capacity in the MoF for public procurement, but none for PPPs/concessions.

A department of the MoF has been designated as the authorised body in charge of central public procurement functions, in particular the regulation and co-ordination of public procurement. Accordingly, it has the necessary authority and decision-making power to: 1) prepare regulations; 2) advise on their application; 3) issue standard documents; 4) take charge of capacity building and quality assurance; 5) maintain and co-ordinate the e-procurement system; 6) publish notices; 7) monitor public procurement; and 8) prepare an annual report.

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<sup>652</sup> *Idem*, Article 7.

<sup>653</sup> *Idem*, Article 6.

<sup>654</sup> *Idem*, Articles 6.1. (5), (6), 50.7. (2).

Centralised procurement, on the other hand, must be dealt with by a separate body authorised by the Government<sup>655</sup>, according to procedures also prescribed by the Government. Further details to this effect are set out in Chapter XIV of Decree No. 526-N. In practice, centralised procurement appears to be handled essentially through the e-procurement system.

The public procurement department of the MoF is staffed by 15 persons, grouped in two units. It also serves as the secretariat of the two persons reviewing complaints, each of whom has two assistants from the public procurement department.

The new electronic procurement system has contributed to streamlining the procurement process and has significantly enhanced its transparency. It became operational in 2018, and its introduction has already been evaluated favourably by contracting authorities and economic operators. At the same time, it is limited by the exclusive reliance on price as the only award criterion and by its application exclusively to a specific list of items adopted by the Government.

The Department of Investment Attraction and Co-ordination, under the Ministry of Economic Development and Investment, is responsible for developing PPP regulations. However, there is no other specific entity with responsibilities that include management or oversight of procurement of PPPs/concessions.

The MoF's public procurement website<sup>656</sup> contains a wide variety of public procurement notices, information about public procurement training, methodological advice (including tutorials on the use of the e-procurement system) and other information related to public procurement. Access is open, but the value of the information provided is somewhat limited, because several types of notices do not contain full information and refer to PDF files, which are not easily searchable.

The public procurement notices on the website include announcements and invitations to electronic auctions, open tenders, price quotations, single-source procurement and prequalification for restricted tenders (including closed tenders), award notices, notices on signed contracts, minutes of evaluation committee meetings and announcements of failed procedures. The notices are normally published in Armenian, Russian and English, and it is not always possible to download them<sup>657</sup>.

The website also contains links to a list of common procurement vocabulary codes, lists of non-eligible (blacklisted) economic operators and online broadcasts of the proceedings when the review persons are examining complaints, as well as contact details for the MoF's public procurement hotline, maintained by staff in the public procurement department.

The e-procurement system has a separate website<sup>658</sup>, where registration is required for access to a number of functionalities. It was reactivated in early 2018 after problems running earlier versions that were introduced starting in 2012. The system provides access to procurement notices and the corresponding tender documentation and contains a facility for e-auctions<sup>659</sup>. It also gives access to reports and statistical data on public procurement, as well as public procurement plans, tenders submitted and contracts concluded. However, although this data can be searched using a number of predefined criteria to find particular items, these are also mostly available only as PDF files, with limited possibilities for automated searching and analysis. In addition, the two websites mentioned do not always allow retrieval of data in practice, with missing and inactive links on several occasions.

Despite considerable efforts to boost transparency and efficiency, the strategic approaches to public procurement remain weak, and there are shortcomings in data accessibility. In light of these issues, the

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<sup>655</sup> PPL, Article 17.

<sup>656</sup> <http://www.procurement.am/> (in Armenian) and <http://www.procurement.am/en/> (in English).

<sup>657</sup> As observed by SIGMA when testing website access.

<sup>658</sup> [www.armeps.am](http://www.armeps.am).

<sup>659</sup> [eauction.armeps.am](http://eauction.armeps.am).

value of the indicator on the central institutional and administrative capacity to develop, implement and monitor public procurement policy effectively is 2.

Quality of legislative framework for public procurement and PPPs/concessions						
This indicator measures the quality of the legislative framework for public procurement and public private partnerships (PPPs)/concessions, above and below World Trade Organization (WTO) Government Procurement Agreement (GPA) thresholds. Opportunities for participation of small and medium-sized enterprises (SMEs) in public procurement are assessed, as well as whether practical measures are taken to allow proper implementation of the legislation. The other indicators in the public procurement area analyse the actual implementation of laws and regulations and the results thereof.						
Overall indicator value	0	1	2	<b>3</b>	4	5

Sub-indicators	Points
<b>Compliance of public procurement legislation with international standards above WTO Government Procurement Agreement thresholds</b>	
1. Level of alignment of public procurement legislation with the WTO Government Procurement Agreement	3/5
2. Scope of public procurement legislation	7/9
3. Public procurement procedures	4/4
4. Publication and transparency	5/7
5. Choice of participants and award of contracts	5/6
6. Availability of procedural options	0/4
<b>Public procurement procedures below WTO Government Procurement Agreement thresholds</b>	
7. Advertising of public procurement procedures	3/3
8. Contract award procedures	5/7
<b>Opportunities for participation of SMEs in public procurement</b>	
9. Opportunities for participation of SMEs in public procurement	3/5
<b>Availability of measures for the practical application of the legislative framework</b>	
10. Availability of measures for the practical application of the legislative framework	2/5
<b>Quality of legislation concerning PPPs/concessions</b>	
11. Coverage of legislation on PPPs/concessions	2/2
12. Value for money, free competition, transparency, equal treatment, mutual recognition and proportionality for PPPs/concessions	0/10
<b>Total<sup>660</sup></b>	<b>39/67</b>

<sup>660</sup> Point conversion ranges: 0-11=0, 12-23=1, 24-35=2, 36-46=3, 47-57=4, 58-67=5.

**Central institutional and administrative capacity to develop, implement and monitor public procurement policy effectively and efficiently**

This indicator measures to what extent public procurement policy is systematically developed, implemented and monitored, how central public procurement functions are distributed and regulated, and to what extent the preparation and implementation of policies is open and transparent.

Overall indicator value 0 1 **2** 3 4 5

Sub-indicators	Points
<b>Quality of the policy framework for public procurement</b>	
1. Quality of the strategy for development of public procurement and PPPs/concessions	2/5
2. Quality of the operational action plan	0/5
3. Implementation of the strategy and the action plan	0/5
4. Monitoring of strategy implementation	2/5
<b>Capability of central procurement institutions and their performance</b>	
5. Adequacy of the legal framework to ensure capable institutions	4/10
6. Clarity in definition and distribution of central procurement functions in the legislation	8/10
7. Performance of the institutions involved, their capacity and resources	6/20
<b>Comprehensiveness and efficiency of systems for monitoring and reporting on public procurement</b>	
8. Presence and quality of monitoring and data collection	2/10
9. Accessibility of public procurement data	4/10
<b>Total<sup>661</sup></b>	<b>28/80</b>

Despite some deviations, the PPL in force since April 2017 is broadly in line with the GPA and good international practice. But secondary legislation partly contradicts it and adds unnecessary and confusing complexity. Also, amendments to the PPL adopted in March 2018, fail to fully align with the GPA and seem to violate the CEPA, particularly with respect to the review body. There is no public procurement strategy, and the institutional set-up lacks checks and balances, in that all central public procurement functions are concentrated under the MoF.

<sup>661</sup> Point conversion ranges: 0-12=0, 13-25=1, 26-39=2, 40-53=3, 54-67=4, 68-80=5.

### **Key recommendations**

#### **Short-term (1-2 years)**

- 1) Revise and simplify secondary legislation, ensuring that it is fully harmonised with the PPL and does not add any further obligations.
- 2) Ensure that the PPL and secondary legislation is fully aligned with the GPA and the CEPA.
- 3) Prepare a longer-term public procurement strategy, aligned with the broader needs and interests of the contracting authorities, the economic operators and the citizens, and subject to regular monitoring and revision.
- 4) Review and revise the institutional set-up in order to introduce suitable checks and balances and avoid conflicts of roles and responsibilities.

#### **Medium-term (3-5 years)**

- 5) Improve the quality and the pertinence of public procurement data, ensuring that detailed information is systematically generated and made available to all interested parties.
- 6) Monitor the implementation of the strategy and the application of the PPL, in order to ensure that future legislative action becomes suitably evidence based.

***Principle 9: The remedies system is aligned with applicable agreements and international regulations and with internationally recognised good practice of independence, probity and transparency and provides for rapid and competent handling of complaints and sanctions.***

A new procurement review body was established in 2017, but abolished in March 2018 (according to the MoF, this was due to the entry into force of the new Constitution). Now the review persons are part of the MoF, as further explained below. This situation seems in clear and manifest contradiction with the requirement for independence set out in Article 47.2. of the PPL Article 271 (5) of the CEPA and Article XVIII.4 of the GPA.

The purported need to replace the former procurement review board with review persons and to subordinate them to the MoF appears to have been based on a presumed obligation to apply Article 159 of the Armenian Constitution<sup>662</sup>. However, Article 122 of the Constitution explicitly foresees the creation of autonomous bodies with a mandate “to ensure exercise of the basic rights and freedoms of the human being and the citizen, as well as to protect public interests of fundamental significance”, such as the independent and impartial review of public procurement complaints.

In addition, contrary to Article 46.3.(2) of the PPL, appeals of the decisions of the review persons now appear to fall outside the jurisdiction of Armenian courts. In a recent case<sup>663</sup>, the Court of the city of Yerevan found that it had to dismiss an appeal, pursuant to Article 126, part 1, point 1 of the Civil Procedure Code, which states that: “The Court of First Instance shall dismiss the [appeal] if the case is not subject to examination in civil proceedings.” The Court found that, contrary to Article 46.2<sup>664</sup> of the PPL, decisions by the review persons are not “civil proceedings”. As a result, Armenian economic operators may now be deprived of legal protection.

By amendment to the PPL of 23 March 2018, the former review body was replaced by review persons, with the Government deciding on their number (currently, two persons have been appointed). The PPL Law does not clearly indicate how they are to be appointed nor to whom they report, although it does

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<sup>662</sup> Article 159 of the Constitution: “The bodies of the state administration system shall be the ministries, as well as other bodies subordinate to the Government, the Prime Minister and ministries”.

<sup>663</sup> Court Case No. YeD/17728/02/18.

<sup>664</sup> PPL, Article 46.2: “Relations pertaining to the procurement, including the relations with regard to examination of appeals, shall not be regarded as administrative relations and shall be regulated by the legislation of the Republic of Armenia regulating civil law relations”.

require them to be independent of contracting authorities and economic operators participating in public procurement and to act fairly and impartially.

Apart from the provisions in the PPL, their work is regulated by a separate charter issued by the MoF<sup>665</sup>, which seems to contradict the general requirements for independence and impartiality of the PPL and to bring actual practice even further away from the provisions of the CEPA and GPA. The charter states that: “Management of the person reviewing procurement-related complaints shall be exercised by the Minister of Finance”<sup>666</sup>. They receive their salaries from the MoF budget and have the rank of department heads in the MoF<sup>667</sup>. They carry out their work on the premises of the MoF<sup>668</sup> and their “assistant[s], advisor[s], as well as other persons necessary for technical support” are provided by the MoF<sup>669</sup>.

With the MoF being a contracting authority itself and exercising control over other contracting authorities through the supervisory and advisory role of its public procurement department and through the financing provided from the state budget, the effective independence of the review persons can therefore hardly be presumed.

Complaints can be submitted not only by economic operators but by “every person”<sup>670</sup>, although only those “interested in concluding a specific transaction and having suffered damages” are entitled to claim corresponding compensation through the courts.

Complaints can be lodged irrespective of the public procurement procedure used or the value of the contract. A flat rate fee of AMD 30 000 (around EUR 54) must be paid when the complaint is made<sup>671</sup>. The payment goes to the state Budget, and the claimant is entitled to be reimbursed if the complaint is successful.

According to the PPL, complaints must be filed in writing<sup>672</sup>, without any further details. This may create uncertainty and may limit access to justice. If the complaint is incomplete or otherwise fails to meet the formal requirements, the review person is required to advise the claimant within two days, giving the claimant another two days to rectify the submission<sup>673</sup>. Although the opportunity to rectify clerical errors in the complaint is laudable, the deadline for doing so is quite short.

When receiving a complaint, the review person must publish a notice to this effect within one working day. Others whose interests may have been violated in a similar way then have to lodge a similar complaint and join the proceedings, as a condition for exercising their rights in this respect.

Complaints against the contents of tender documents can be lodged until the deadline for submission of tenders, and complaints against award decisions can be made until the expiry of the standstill period<sup>674</sup>. However, the value of this last provision is considerably reduced by the fact that when only one economic operator has submitted a tender, the standstill period of ten days (competitive tenders or electronic auctions) or five days (other procedures) is not applicable. This contradicts the requirements of the GPA and the CEPA for a minimum of ten days in all cases<sup>675</sup>.

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<sup>665</sup> Decree No. 266-A of the MoF, 11 June 2018.

<sup>666</sup> *Idem*, point 12.

<sup>667</sup> *Idem*, point 7.

<sup>668</sup> *Idem*, point 8.

<sup>669</sup> *Idem*, point 7.

<sup>670</sup> PPL, Article 46.1.

<sup>671</sup> *Idem*, Article 50.1. (6).

<sup>672</sup> *Idem*, Article 50.1.

<sup>673</sup> *Idem*, Article 50.3.

<sup>674</sup> *Idem*, Article 10., Art. 50.2.

<sup>675</sup> GPA, Article XVIII.3., CEPA Art 271.6. (a).

The submission of a complaint automatically suspends<sup>676</sup> the procurement procedure, although the review person examining the complaint has the right to allow the procedure to move ahead in cases of overriding public interest or related circumstances. This right to complain up to the deadline for submission combined with the resulting automatic suspension of the procedure may create considerable difficulties for both contracting authorities and economic operators, in cases where procedures must be suspended at a time when parties may have made costly arrangements to attend a tender opening that has to be delayed *sine die*.

Complaints are examined by one of the review persons, who rules on the case alone. There are no provisions in the PPL for collegial decision making on complaints<sup>677</sup>. Except in the case of state secrets, the examination of complaints is open to the public. All parties concerned have the right to be present and to express their views at the session convened to examine the complaint. The proceedings are broadcast in real time, and the video files are accessible to the general public on YouTube at the Armenia's e-government site<sup>678</sup> and also via a link on the MoF's public procurement website<sup>679</sup>.

The reasoned decision of the review person has to be issued in writing within 20 calendar days (with one possible extension of 10 days, upon the reasoned decision of the review person), and it must be published within two working days of issuance. Decisions are binding upon the parties, but they may be amended or cancelled upon decision by a court, according to the PPL<sup>680</sup>.

For the whole of 2017, 170 complaints were submitted to the Procurement Appeals Board. Of these, 53 complaints were received by the earlier Procurement Appeals Board, of which 29 were accepted, 20 rejected and 4 dismissed. On 25 April 2017, a new Procurement Appeals Board was formed, consisting of two members. From that date until the end of the year, the new Board received 117 complaints, of which 66 were accepted, 35 rejected and 15 dismissed.

The overall number of complaints is quite low compared to many other countries, although it continues to rise. The number of persons reviewing the complaints is correspondingly small, with little redundancy to meet demand if the number of complaints increases or if more complex or difficult complaints are lodged. SIGMA's review of recent decisions indicates a thorough approach, and decisions are reported to be made within the statutory deadlines.

In 2017, when the review function was exercised by the review board, 18 appeals against its decisions were made to the courts. The review board decision was upheld in 1 case and reversed in 1 case, but 16 cases were still pending in mid-2018. More recently, the courts have refused to accept such appeals, citing lack of jurisdiction.

The review persons have the right<sup>681</sup> to prohibit adoption or implementation of decisions by contracting authorities as well as the right to oblige them to adopt certain decisions, including cancellation of procedures. The review persons may also decide to blacklist certain tenderers. In addition, they are obliged to ensure that their decisions are executed, and they are reported to make efforts to this effect. However, no mechanisms for ensuring compliance with decisions are set out in the PPL.

The decisions examined by SIGMA follow a clear, standard format. They state the facts of the case and the positions of the parties, refer to applicable laws or regulations and provide a clear rationale for the decision made, with the main focus on substantive issues, however, there is no searchable database of past decisions. In meetings with SIGMA, both contracting authorities and economic operators complained that the review persons sometimes issue contradictory decisions but no specific examples were given. It is clear that the absence of a searchable database of past decisions makes it difficult for

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<sup>676</sup> PPL, Article 51.

<sup>677</sup> *Idem*, Article 50.

<sup>678</sup> <https://www.e-gov.am/gnumner/>.

<sup>679</sup> <http://www.procurement.am/>.

<sup>680</sup> PPL, Article 50.6.

<sup>681</sup> *Idem*, Article 50.7. (1).

the review persons themselves to ensure consistency of their rulings and thereby establish a kind of coherent case law. Similarly, it makes it difficult for contracting authorities and economic operators to make reasonable assumptions on what position the review persons might take with respect to contemplated procurement actions.

There are no particular review procedures or bodies for PPPs/concessions.

Although complaints appear to be handled in a thorough and timely manner, there is an apparent lack of independence and the standstill periods are sometimes too short or missing, and review procedures for PPS/concessions are not regulated. In light of these issues, the value of the indicator on the independence, timeliness and competence of the complaints handling system is 2.

Independence, timeliness and competence of the complaints handling system						
This indicator measures the effectiveness of the system for handling complaints on public procurement. First, the quality of the legislative and regulatory framework is assessed. Then, the strength of the institutional set-up for handling complaints is analysed. Next, the actual performance of the review system is measured. Finally, the performance of the remedies system for PPPs/concessions is evaluated.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
<b>Legislative mechanisms for handling complaints</b>	
1. Right to challenge public procurement decisions	5/5
2. Time limit for challenging decisions taken by procuring entities	0/2
3. Available remedies	2/4
4. Mechanisms to ensure implementation of the review body's resolutions	0/2
5. Right to challenge decisions of the review body	0/3
<b>Institutional set-up for handling complaints</b>	
6. Legal provisions ensure the independence of the review body and its members	3/7
7. Adequacy of the organisational set-up and procedures of the review body	3/4
8. Public availability and timeliness of data on the review system	3/4
<b>Performance of the review system</b>	
9. Fairness of fee rates for initiating review procedures	3/3
10. Actual processing time of complaints	3/3
11. Complaint submission in practice	2/4
12. Quality of decision making by the review body	4/4
13. Cases changed or returned after verification by the court (%)	2/2
<b>Performance of the remedies system in PPPs/concessions</b>	
14. Right to challenge lawfulness of actions/omissions in PPP/concessions procedures	0/5
15. Legal provisions ensure independence of the review body for PPPs/concessions and its members	0/5
16. Timeliness and effectiveness of complaints handling system for PPPs/concessions	0/5
<b>Total<sup>682</sup></b>	<b>30/62</b>

The independence required by the GPA and the CEPA is not in place, and past decisions are not searchable. However, despite a rising case load, current capacity is adequate for preparing and publishing comprehensive decisions on the surprisingly low number of complaints received.

<sup>682</sup> Point conversion ranges: 0-8=0, 9-19=1, 20-30=2, 31-41=3, 42-52=4, 53-62=5.

### **Key recommendations**

#### **Short-term (1-2 years)**

- 1) Ensure the full independence of the review body as an institution as well as its members, in alignment with the principles and requirements of the GPA and the CEPA.
- 2) Clarify the procedures for lodging and handling complaints, and revise the time limits, including the standstill periods, in line with the GPA and the CEPA.

#### **Medium-term (3-5 years)**

- 3) Monitor the functioning of the review system and amend regulations and practices as appropriate.

***Principle 10: Public procurement operations comply with basic principles of equal treatment, non-discrimination, proportionality and transparency, and ensure the most efficient use of public funds; procuring entities have appropriate capacities and use modern procurement techniques.***

The provisions of the PPL and of Decree No. 526-N<sup>683</sup> regarding planning of public procurement mainly regulate financial matters, essentially to ensure that no contract becomes effective without sufficient financing. Contracting authorities are required<sup>684</sup> to prepare and publish their procurement plans. However, although the MoF website<sup>685</sup> is supposed to provide a single point of access to these plans<sup>686</sup>, and the e-procurement website<sup>687</sup> includes a corresponding search function<sup>688</sup>, the links in the MoF website are not live and the e-procurement website typically returns individual items to be procured rather than any complete procurement plans.

Needs assessment and other preparations, such as market consultations, are not regulated by the PPL but the Government has issued separate guidelines for use by contracting authorities. However, less than half of the contracting authorities surveyed by SIGMA on this had used the guidelines during the last three years. Of those who had, less than half found them useful or very useful. In addition, just over a third of respondents confirmed the actual use of inputs from market consultations, cost estimates or any applicable budgetary constraints when preparing tender documentation.

However, the PPL is more explicit on the description of the items to be procured<sup>689</sup>. There are clear, specific requirements for equal treatment, non-discrimination, proportionality and transparency. In the case of works contracts, preliminary design work has to be carried out before funding can be set aside for the purpose. For other contracts, the PPL requires a considerable level of detail in the descriptions but allows the use of functional specifications, to the extent that they give both tenderers and the contracting authority itself a precise understanding of the subject of the contract.

Tender documents are only required to be issued in Armenian, while procurement notices also have to be published in English and Russian. Tenders are also allowed to be submitted in one of these two languages<sup>690</sup>.

According to data provided by the Government, services constitute around 57% of the procurement market by value, followed by works (24%) and goods (19%). Large contracts (above the GPA thresholds) constitute about 20% of the contracts for goods, but well below 10% of the contracts for services. No works contracts are reported above the GPA thresholds.

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<sup>683</sup> PPL, Article 15; Decree No. 526-N, sections 16-19.

<sup>684</sup> PPL, Articles 15.1. and 15.3.

<sup>685</sup> <http://www.procurement.am/>.

<sup>686</sup> [http://www.procurement.am/en/page/procurement\\_plans\\_archiv/](http://www.procurement.am/en/page/procurement_plans_archiv/).

<sup>687</sup> <https://www.armeps.am>.

<sup>688</sup> <https://armeps.am/ppcm/public/procurements>.

<sup>689</sup> PPL, Article 13.

<sup>690</sup> *Idem*, Article 14.

The main contracting authorities are the Ministry of Health, the armed forces and the police, and the Ministry of Transport, Communications and Information Technologies, as well as the major municipalities, with the City of Yerevan by far the largest of those.

In total (reported procedures above and below the GPA thresholds), 10 370 competitive procedures were carried out in 2017, compared to 15 041 negotiated procedures without publication of a notice and single-source procedures. In the competitive procedures, all except 3 used price as the only award criterion. It should be noted, however, that these figures do not include procurement in cases when there is only one supplier or in cases of special or exclusive rights<sup>691</sup>.

In a survey of economic operators<sup>692</sup>, 20% of the respondents expressed concerns about the quality of tender documents. The most frequent concern was the impression that the criteria seemed to be tailor-made for certain participants. There were also concerns that the procedures seemed burdensome or bureaucratic and that the criteria used were unclear.

On the other hand, only about 1 economic operator in 20 had refrained from participating in public procurement in the past because of concerns about time limits or an impression that the deal seemed to have been sealed before the tender was published.

According to statistical data provided by the authorities, competitive procedures were used in only 41% of cases. The award of contracts by direct agreement seems to have gone down significantly in recent years, according to data compiled by the OECD<sup>693</sup> based on official statistics, but it still remains high.

In meetings with SIGMA, major contracting authorities indicated a fairly high number of participants in most tenders, and the annual report of the MoF's public procurement department indicates an average number of four tenders in competitive procedures. On the other hand, other data provided by the Government indicates that just one tender was received in only 1% of the cases, which seems to require further clarification.

Attaining value for money in public procurement is made difficult by the almost exclusive use of the acquisition price as the only award criterion, subject to the tender meeting minimum technical requirements. This is a legal requirement in the case of electronic auctions, while in other cases the PPL explicitly allows and regulates the use of non-price criteria, putting them on par with the lowest price.

So called "periodic closed tenders" constitute a kind of framework agreement, which is specifically regulated in the PPL and Decree No. 526-N<sup>694</sup>. These are fairly widely used, especially in the case of e-procurement, where they constitute almost two-thirds of the transactions<sup>695</sup>.

The PPL mentions centralised procurement only to award the Government the right and duty to issue detailed regulations covering the procedures to be used and the items to be procured in this manner. Official statistics indicate that 3 306 centralised procedures, accounting for some 20% of the total value of public procurement, were carried out by individual contracting authorities in 2017, although the Government has not yet issued a decree setting up a specialised body for this purpose or adopted a corresponding list of items.

E-procurement in the general sense is widely used, with about half of the contracting authorities connected to ARMEPS, the e-procurement system. Only small contracting authorities are not connected at present, but they are expected to join no later than 2020. The functionalities include facilities for publishing notices, making tender documents available, receiving tenders and recording all aspects of the proceedings. In addition, an e-auction module has been operational since early 2018. Irrespective of

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<sup>691</sup> Decree No. 526-N, point 23.4, and the equivalent in earlier legislation (Decree No. 168-N, 10 February 2011).

<sup>692</sup> SIGMA-commissioned survey of 300 economic operators, conducted in October 2018.

<sup>693</sup> Anti-corruption reforms in Armenia, 4th round of monitoring of the Istanbul Anti-Corruption Action Plan, p. 100 and ff.

<sup>694</sup> PPL, Articles 18.2. and 22.2.; Decree No. 526-N, sections 74-79.

<sup>695</sup> Anti-corruption reforms in Armenia, 4th round of monitoring of the Istanbul Anti-Corruption Action Plan, p. 104.

the use of other ARMEPS facilities, notices and tender documents from all contracting authorities are available on the MoF's website.

The introduction of e-auctions has been met with satisfaction by both contracting authorities and economic operators, as variously stated in meetings with SIGMA, and by civil society, despite the limitation created by the obligation to use price as the sole award criterion.

The PPL regulates the evaluation and award procedure in some detail<sup>696</sup>, with Decree No. 526-N providing further procedural guidance. In particular, there is a requirement<sup>697</sup> for every contracting authority to appoint a procurement co-ordinator in charge of the organisation and co-ordination of the public procurement process. This may be a unit in the contracting authority, an individual official or an external expert engaged for this purpose. The procurement co-ordinator also serves as the secretary of the evaluation committee<sup>698</sup> that the contracting authority has to form to issue invitations, provide clarifications if requested, open and evaluate tenders and determine the winner.

Members of the evaluation committee must not be in a situation of conflict of interest and have to sign a statement to this effect, which must be published immediately after the tender opening. Apart from this and other requirements for impartiality in the PPL, there are no specific integrity tools for public procurement. Officials follow the general ethics guidelines in place for all civil servants.

Minutes of the evaluation committee meetings, tenders received, award notices and reports are freely available on the MoF website, ensuring a certain level of transparency, despite the limitations set by the use of PDF files for publishing much of the data.

There are no specific provisions in the PPL regarding contract management. In meetings with SIGMA, both contracting authorities and economic operators mentioned problems in this regard. Nevertheless, the general obligation to publish contract amendments adds transparency, even if there is no evidence of analysis by the MoF's public procurement department of the reported contract amendments. No data is available on the frequency of contract amendments or on any review of their nature and causes.

No formal ex post evaluation requirements are set out in the PPL, and there is no evidence of any systematic, specific review of the performance of contracts concluded by the contracting authorities. On the other hand, public procurement benefits from the institutions and mechanisms for internal and external audit of public institutions in general.

Despite the positive aspects of the continued development of e-procurement, in light of weaknesses in planning and preparation and the use of award criteria other than price, as well as some missing data, the value of indicator for efficiency, non-discrimination, transparency and equal treatment practiced in public procurement operations is 1.

The application of the PPL is facilitated by a set of guidelines and manuals available on the MoF's public procurement website<sup>699</sup>. While their scope is limited, a survey among contracting authorities and economic operators indicated a fairly high level of satisfaction, with almost half of contracting authorities and well over a third of economic operators finding them useful or very useful.

Standard documents are also available in the same way, and their usefulness was rated even higher than that of the manuals and guidelines: 68% of contracting authorities and 41% of economic operators found them useful or very useful.

Nevertheless, the guidelines and standard documents focus mainly on the tendering and award phase of the public procurement process, with scant attention to aspects like needs assessment and market consultations, and only limited attention to post-award contract management. The level of detail and

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<sup>696</sup> PPL, Articles 26 and 34.

<sup>697</sup> *Idem*, Article 16.3-5.

<sup>698</sup> *Idem*, Article 26.

<sup>699</sup> [http://www.procurement.am/en/page/guidelines\\_manuals\\_archiv/](http://www.procurement.am/en/page/guidelines_manuals_archiv/) and [http://www.procurement.am/en/page/templates\\_of\\_documents\\_used\\_in\\_procurement\\_procedures\\_archiv/](http://www.procurement.am/en/page/templates_of_documents_used_in_procurement_procedures_archiv/).

specificity of the manuals is also limited, although standard documents exist for more than a dozen particular cases.

Irrespective of the scope and quality of manuals, guidelines and standard documents, knowledge, skill and experience are necessary to use them properly and to carry out procurement with economy and efficiency. To this effect, under the PPL<sup>700</sup>, the authorised body (the MoF's public procurement department) is obliged to provide training and to certify the qualifications of public procurement experts (staff in a contracting authority's public procurement unit, individual procurement officials or external experts engaged by a contracting authority).

The department organises regular training events, including examinations for certification purposes, but only to the minimum extent required by the law: procurement co-ordinators are obliged to retrain at least every three years. A survey among contracting authorities indicates that two-thirds of them find the training useful or very useful. In 2017, 1 111 persons participated in training organised by the MoF, compared with only 378 in 2016, when training was organised differently. Curricula are set out in decrees issued by the MoF<sup>701</sup>.

As a complement to the manuals, guidelines, standard documents and training offered, the MoF has a help desk reachable by telephone that is open to all to answer questions about policies, procedures and documents. In meetings with SIGMA, both contracting authorities and economic operators complained about difficulties in getting through and receiving useful advice, but a survey<sup>702</sup> shows that more than three-quarters of the contracting authorities and over half of the economic operators find the advice useful.

The MoF also provides explanations on a number of issues regularly raised by contracting authorities and economic operators<sup>703</sup>.

No details are available on cancelled procedures.

Despite laudable efforts to develop training and to provide manuals and standard documents, there is still room for improvement and a lack of data on cancelled procedures. In light of these issues, the value of the indicator on the availability and quality of support to procuring entities and economic operators to strengthen professionalisation of procurement operations is 2.

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<sup>700</sup> PPL, Article 16.1. (3).

<sup>701</sup> MoF Decree No. 85-A "On Approval of Continuous Professional Training Programs and Syllabus in 2018 for Procurement Coordinators" of 7 March 2018 and MoF Decree No. 395-A "On Approving Programs and Themes of Continuous Professional Trainings of Procurement Coordinators" of 1 August 2017.

<sup>702</sup> SIGMA-commissioned survey of 150 contracting authorities and 300 economic operators, conducted in October 2018. 78 % of contracting authorities and 57 % of economic operators evaluated the answers provided by the MoF as generally helpful.

<sup>703</sup> [http://www.procurement.am/en/page/official\\_explanations\\_archiv/](http://www.procurement.am/en/page/official_explanations_archiv/).

## Efficiency, non-discrimination, transparency and equal treatment practiced in public procurement operations

This indicator measures the extent to which public procurement operations comply with basic principles of equal treatment, non-discrimination, proportionality and transparency, while ensuring most efficient use of public funds. It measures performance in the planning and preparation of public procurement, the transparency and competitiveness of the procedures used, the extent to which modern approaches and tools are applied, and how the contracts are managed once they have been concluded.

Overall indicator value	0	<b>1</b>	2	3	4	5
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Sub-indicators	Points
<b>Planning and preparation of the public procurement procedure</b>	
1. Due attention is given to the planning process	0/5
2. Presence and use of cost estimation methods and budgeting <sup>704</sup>	0/2
3. Perceived quality of tender documentation by procuring entities and economic operators (%)	1/4
<b>Competitiveness and transparency of conducted procedures</b>	
4. Perceived fairness of procedures by businesses (%)	2/4
5. Contracts awarded by competitive procedures (%)	1/5
6. Contracts awarded based on acquisition price only (%)	0/5
7. Average number of tenders submitted per competitive procedure	2/3
8. Contracts awarded when one tenderer submitted a tender (%)	2/2
<b>Use of modern procurement methods</b>	
9. Adequacy of regulatory framework for and use of framework agreements	2/5
10. Adequacy of regulatory and institutional framework and use of centralised purchasing	5/5
11. Penetration of e-procurement within the procurement system	3/5
<b>Contract management and performance monitoring</b>	
12. Presence of mechanisms requiring and enabling contract management	0/6
13. Contracts amended after award (%) <sup>705</sup>	0/4
14. Use of <i>ex post</i> evaluation of the procurement process and of contract performance	3/6
<b>Risk management for preserving the integrity of the public procurement system</b>	
15. Existence of basic integrity tools	0/4
<b>Total</b> <sup>706</sup>	<b>21/65</b>

704 Insufficient data provided to enable assessment.

705 No data provided.

706 Point conversion ranges: 0-12=0, 13-23=1, 24-34=2, 35-45=3, 46-56=4, 57-65=5.

### Availability and quality of support to procuring entities and economic operators to strengthen professionalisation of procurement operations

This indicator measures the availability and quality of support given to procuring entities and economic operators to develop and improve the knowledge and professional skills of procurement officers and to advise them in preparing, conducting and managing public procurement operations. This support is usually provided by a central procurement institution.

This indicator does not directly measure the capacity of procuring entities. The assessment is of the scope of the support (whether all important stages of the procurement cycle are covered), its extent, and its quality and relevance for practitioners (whether it provides useful, practical guidance and examples). Surveys of procuring entities and economic operators are used to gauge the relevance and practical applicability of the support.

Overall indicator value 0 1 **2** 3 4 5

Sub-indicators	Points
<b>Availability and quality of manuals, guidelines, standard tender documents and other operational tools</b>	
1. Availability and quality of manuals and guidelines	1/5
2. Availability and quality of standard tender documents, standard forms and standard contract models	3/5
<b>Availability and quality of training and advisory support</b>	
3. Access to quality training for procurement staff	2/5
4. Availability of advice and support for procuring entities and economic operators	4/5
<b>Procurement procedures cancelled</b>	
5. Procurement procedures cancelled (%) <sup>707</sup>	0/5
<b>Total</b> <sup>708</sup>	<b>10/25</b>

Planning and preparation prescriptions are in place, but they strictly limit the timing of public procurement and the use of evaluation criteria other than price. E-procurement is widely used and helps boost transparency. Other modern methods are also used, but only central government entities, utilities and the largest cities have adequate skills and resources for proper public procurement management. Ad-hoc advisory support is available, but it is not always timely and clear. Little training is provided, and the range of standard documents, instructions and examples is narrow, although more than half of the users surveyed are satisfied.

<sup>707</sup> No data provided.

<sup>708</sup> Point conversion ranges: 0-4=0, 5-8=1, 9-12=2, 13-16=3, 17-20=4, 21-25=5.

**Key recommendations**

**Short-term (1-2 years)**

- 1) Prepare more comprehensive but simple and practical guidelines for contracting authorities and economic operators, while allowing flexibility for their application and adaptation to a wide range of actual and individual needs.
- 2) Analyse the public procurement skills of contracting authorities and economic operators, identify their training needs and prepare a training strategy to meet them.
- 3) Take measures to successively reduce the over-reliance on acquisition price as the main or only award criterion.

**Medium-term (3-5 years)**

- 4) Develop regular and profound analysis of how the public procurement system works on the basis of systematically generated, comprehensive and transparent transaction data.
- 5) Implement the training strategy mentioned above, monitoring the outcomes and amending the strategy and the means used accordingly.

## External audit

**Key requirement: The constitutional and legal framework guarantees the independence, mandate and organisation of the supreme audit institution to perform its mandate autonomously according to the standards applied for its audit work, allowing for high-quality audits that positively impact on the governance and functioning of general government institutions.**

The values of the indicators assessing Armenia's performance under this key requirement are displayed below.

Indicators	0	1	2	3	4	5
Independence of the supreme audit institution			◆			
Effectiveness of the external audit system		◆				

Legend: ◆ Indicator value

### **Analysis of Principles**

**Principle 11: The independence, mandate and organisation of the supreme audit institution are established and protected by the constitutional and legal frameworks and are respected in practice.**

The AC is established under the Constitution, which regulates its functions and powers and the procedure for its formation<sup>709</sup>. The powers, rules of operation and guarantees for the activities of the AC are laid down in the new AC Law, which replaces the Law on Chamber of Control of 2006. The 2018 Law is more in line with the ISSAIs than the 2006 Law but some important deficiencies remain and the functional, operational and financial independence of the AC are still not fully guaranteed.

The AC's functional independence is limited by certain requirements in the Law, such as the need to send interim findings to the National Assembly<sup>710</sup> and agendas of AC Board meetings to both the National Assembly and the Government<sup>711</sup>. The limitation of audits to a maximum of 24 days<sup>712</sup> affects the AC's power to define the optimum days needed to deliver a good quality audit report. Moreover, the AC's authority to follow up audit results and recommendations is not set out in the 2018 AC Law.

Operational independence is affected by the civil service status of the AC staff. The new Civil Service Law (CSL)<sup>713</sup> introduces decentralised staff management and the General Secretary is now authorised to recruit and dismiss AC staff<sup>714</sup>. However, while the General Secretary is appointed by the Chairperson of the AC, the competition is conducted and the winning candidate chosen by a selection committee, run by the Civil Service Office, of which the Chairperson is politically appointed<sup>715</sup>.

<sup>709</sup> Constitution of the Republic of Armenia, Articles 198 and 199.

<sup>710</sup> AC Law, Article 6.

<sup>711</sup> *Idem*, Article 16.

<sup>712</sup> *Idem*, Article 34.6.

<sup>713</sup> CSL, Article 10.

<sup>714</sup> *Idem*, Article 16.4.

<sup>715</sup> *Idem*, Article 10.10.

The financial independence of the AC is not fully guaranteed either. The AC is obliged to submit its budget request to the Government for approval<sup>716</sup> each year, and the Government may amend<sup>717</sup> it, although it must explain the rationale for its amendments to the National Assembly and the AC<sup>718</sup>. The AC does, however, have independence over the implementation of its budget.

The Chairperson and other members of the AC are elected by the National Assembly, following the recommendations of the relevant standing committee of the National Assembly, for a term of six years<sup>719</sup>. The clauses within the Constitution and AC Law of 2018<sup>720</sup> regarding the appointment and dismissal of the Chairman and the six members of the Board are in accordance with international standards. However, the existing laws do not provide the AC with protection from the Supreme Court against challenges to its independence<sup>721</sup>.

The AC Law of 2018 distinguishes between audit and inspection. All state and local self-government bodies, along with institutions funded from state and community budgets, are to be audited. Legal entities, which are established by state or local self-government bodies and carry out public functions or receive credits, grants or subsidies from the state or local self-government bodies are to be inspected<sup>722</sup>.

The mandate of the AC is, however, not that broad. It is not allowed to audit state and local self-government bodies and institutions not funded from state or community budgets (i.e. 100% self-supporting institutions such as the Central Bank), and it may not visit premises to inspect legal entities carrying out public functions or receiving credits, grants or subsidies, rather it must rely on documents sent to it at its own premises<sup>723</sup>.

The AC is empowered to carry out financial, compliance and performance audits<sup>724</sup>. It reports to the National Assembly twice a year, presenting its Annual Performance Report<sup>725</sup> in March and the annual opinion on the execution of the state budget one month after the submission of the Government's report on the same<sup>726</sup>. From 1 January 2020 the AC will be required to express an opinion on the execution of the state budget and compliance audit, and submit to the National Assembly opinions on the budget execution of the state budget for every quarter.

The 2018 AC Law is confusing with regard to access to premises and information. On the one hand an AC auditor is entitled to access available electronic databases, documents, necessary references, information and accounting statements relating to the auditable activity, to extract information therefrom and to request clarifications<sup>727</sup>. On the other hand, the Law states that the AC will have online access to the electronic databases of state and local self-government bodies and institutions funded from the state and community budgets, and non-commercial legal entities founded by the state or communities, except for information "deemed by law to be secret"<sup>728</sup>. This means that the AC's power to access electronic databases containing bank or other types of sensitive information is unclear. In 2017,

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<sup>716</sup> AC Law, Article 20.1.

<sup>717</sup> *Idem*, Article 20.2.

<sup>718</sup> *Idem*, Article 20.3.

<sup>719</sup> Constitution, Article 199.

<sup>720</sup> *Idem*, Article 199 and AC Law, Article 17.

<sup>721</sup> *Idem*, Article 169 defines entities that are eligible to apply to the Constitutional Court. The AC is not in the list.

<sup>722</sup> AC Law, Article 5.

<sup>723</sup> *Idem*, Article 5.3.

<sup>724</sup> *Idem*, Article 33.

<sup>725</sup> *Idem*, Article 28.3.

<sup>726</sup> *Idem*, Article 27.3.

<sup>727</sup> *Idem*, Article 36.2.

<sup>728</sup> *Idem*, Article 32.1.

several state bodies denied online access to their electronic databases, including the Ministry of Foreign Affairs, the Ministry of Labour and Social Affairs, and the State Revenue Committee<sup>729</sup>.

The annual financial statement of the AC is subject to annual audit by an external audit organisation selected on a competitive basis<sup>730</sup>. The AC received an unqualified opinion for its 2017 annual financial statement.

Citizens have a low level of trust in the SAI, with only 25% trusting the institution. This may reflect their perceptions of the AC's political independence, with only 27% agreeing that the AC is free from political influence.

Due to the restrictions on the AC's independence, mandate and access to information, the final value for the indicator measuring the independence of the supreme audit institution is 2.

Independence of the supreme audit institution						
This indicator measures the extent to which external audit by the supreme audit institution (SAI) is conducted independently, and the internationally recognised conditions for the effective functioning of the SAI are found in law and practice.						
Overall indicator value	0	1	<b>2</b>	3	4	5

Sub-indicators	Points
1. Constitutional and legal independence of the SAI	2/4
2. Organisational and managerial independence of the SAI	3/5
3. Adequacy of the SAI mandate and alignment with International Standards of Supreme Audit Institutions (ISSAIs)	2/3
4. Access to information and premises	0/1
5. Perceived independence of the SAI by the population (%)	0/3
<b>Total<sup>731</sup></b>	<b>7/16</b>

**The AC is anchored in the Constitution but its independence, mandate and access to information are not well defined in the 2018 AC Law, and its independence is not legally protected by the Supreme Court. Citizens have a low level of trust in the AC and do not perceive it to be free from political influence.**

***Principle 12: The supreme audit institution applies standards in a neutral and objective manner to ensure high-quality audits, which positively impact on the governance and functioning of the public sector.***

The AC is currently in a transition phase and does not yet function according to the ISSAIs. The AC does not yet carry out the different types of audit: financial, compliance and performance, because the 2006 Law on the Chamber of Control did not make a distinction between these types of audits. In practice, the AC performs traditional financial/compliance audits (19 in 2017) and focuses on determining economic damage (e.g. irregularities) and violations of rules and regulations. The mandatory audit of the budget execution statement of the Government does not lead to an opinion as defined by the ISSAIs for financial audit, rather it is a conclusion based on a macro-economic analysis<sup>732</sup>. An opinion on the budget

<sup>729</sup> Information provided by the Audit Chamber.

<sup>730</sup> AC Law, Article 23.3.

<sup>731</sup> Point conversion ranges: 0-2=0, 3-5=1, 6-8=2, 9-11=3, 12-14=4, 15-16=5.

<sup>732</sup> Conclusion on the state budget of the Republic of Armenia for 2017, approved on 21 May 2018 according to Decision No. 3/4.

execution statement that is completely in line with the ISSAIs for financial audits is not envisaged before 2020. All reports are published on the official AC website<sup>733</sup>.

The relative importance of the 19 audits in 2017 in terms of budget coverage cannot be determined because the AC does not record this type of statistic. There is no multi-annual strategic audit plan based on risk analysis and establishing priorities for audit activities. Audits are planned according to historically determined audit topics, covering fragmented parts of the budgets of the audited institutions.

The AC developed manuals for financial and compliance audits in 2014. In the period 2016–2017, with external support<sup>734</sup>, almost 80 AC staff members were trained in financial and compliance auditing. In 2016, the manuals were tested in 12 pilot financial and compliance audits. In 2017, the manuals were reviewed by external experts and updated taking into account the results of the pilot audits. Both manuals reflect the new audit approaches in accordance with the ISSAIs but are not yet fully consistent with these standards.

Performance audit is still in its early days. The 2008 manual does not reflect the ISSAIs for performance audit. With the same external support in 2016–2017, 21 AC staff members were involved in training on performance audits and three pilot performance audits were carried out.

There is as yet no quality management system<sup>735</sup> but the new financial and compliance audit manuals do contain specific quality control measures. In practice, the team leader and responsible Board member review audit reports. In 2016, the AC carried out a self-assessment in accordance with the INTOSAI SAI-PMF methodology, which included an assessment of the quality control and quality assurance system. The SAI-PMF report has been submitted to the INTOSAI Development Initiative for quality assurance.

In 2017, the AC submitted 210 recommendations. The rate of implementation of these recommendations is unknown because the AC does not collect statistics about the implementation of its recommendations.

The AC does not have a programme of certification and continuous professional development training<sup>736</sup>. As the AC staff (114 staff, of which 80 are auditors) have civil service status, the AC expects its staff to be able to access civil service training courses. In fact, the professional development of AC staff depends mainly on training organised by external parties. For example, in 2016, 20 staff members were involved in training on the Armenian Public Sector Accounting Standards and in 2018, 10 staff members received training of trainers on the Government Treasury system and 22 were involved in World Bank-supported training on the topic of “World Bank procurement methodology and fighting corruption”.

The National Assembly has a formal procedure for handling the two mandatory AC reports. The relevant standing committee of the National Assembly examines the conclusions of the AC on the budget execution statement<sup>737</sup> and, if available, information provided by the head of the audited institution regarding the conclusion. The Committee, depending on the results of its analysis, may decide to convene a committee sitting or a joint sitting of the area committees to discuss them. No public hearings were held in 2017. The Chairman of the AC presents the report on the AC’s activities to the National Assembly each year, and this report is debated at a sitting of the National Assembly<sup>738</sup>. The report is

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<sup>733</sup> AC website: <http://armsai.am/hy/doclist>.

<sup>734</sup> Joint project EU and GIZ, PFM project in South Caucasus 2017–2020.

<sup>735</sup> The AC Law, Article 23.2 requires that the AC will develop a quality management system.

<sup>736</sup> The AC Law requires that the AC Board members and staff will be certified (Articles 17.1 and 22) and that professional capacities and continuous development are ensured (Articles 10 and 22.2). Certification requirements enter into force on 1 January 2024.

<sup>737</sup> Rules of Procedure of the National Assembly, Article 115, adopted on 16 December 2016, amended on 7 February 2018.

<sup>738</sup> *Idem*, Article 130.

considered by the National Assembly without adopting a decision. The discussions during the sitting are broadcast and published on the Parliament's official website<sup>739</sup>.

Asked if the AC is an institution that can effectively scrutinise the Government and make it accountable, 33% of citizens indicated that they totally agree or tend to agree that the AC is an effective institution.

Due to the AC's work not being fully compliant with ISSAIs, the lack of a quality management system and the absence of any monitoring of the implementation of recommendations, the value for the indicator measuring the effectiveness of the external audit system is 1.

Effectiveness of the external audit system						
This indicator measures the extent to which external audits contribute to improved management of public finances and how the supreme audit institution applies standards to ensure high-quality audits (e.g. through its manuals and quality assurance system).						
Overall indicator value	0	<b>1</b>	2	3	4	5

Sub-indicators	Points
1. Coverage of mandate by external audit	3/6
2. Compliance of audit methodology with ISSAIs	2/6
3. Quality control and quality assurance of audits	0/6
4. Implementation of SAI recommendations (%)	0/6
5. Use of SAI reports by the legislature	3/6
<b>Total<sup>740</sup></b>	<b>8/30</b>

The transition of the AC into an SAI that complies with ISSAIs started in 2018 after the new AC Law came into force, but there has not yet been enough time to materially affect the AC's audit work and results. There is currently also no effective monitoring of the implementation of the AC's recommendations or use of the AC's work by the National Assembly.

<sup>739</sup> <http://www.parliament.am>.

<sup>740</sup> Point conversion ranges: 0-6=0, 7-11=1, 12-16=2, 17-21=3, 22-26=4, 27-30=5.

**Key recommendations**

**Short-term (1–2 years)**

- 1) The AC should develop a new strategic development plan (SDP) for the period 2019–2022 based on the results of the SAI-PMF and the SIGMA Baseline Measurement Report.
- 2) The AC should initiate a dialogue with the National Assembly to bring the 2018 AC Law fully into line with ISSAIs.
- 3) The AC should adopt the ISSAIs as its auditing standards and conduct audits in line with these standards.
- 4) The AC should develop a risk-based audit strategy that considers a gradual reduction in the number of compliance audits conducted and an increase in the number of financial and performance audits.
- 5) The AC should continue to train AC staff in the financial, compliance and performance audit approaches and to carry out pilot audits.
- 6) The AC should develop and implement a quality management system.
- 7) The AC should seek external support for the implementation of the new SDP 2019–2022.

**Medium-term (3–5 years)**

- 8) The AC should draft a long-term training strategy to bring about the certification of auditors and to improve the professional skills of audit staff in using the ISSAIs.
- 9) The AC should develop stakeholder engagement strategies and communicate proactively with the media and the wider public, in order to explain its role and the results of its audits.

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