



Ministry of Justice of Armenia



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Meeting notes:

Project:	Technical Assistance to RA Ministry of Justice and Special Working Group Monitoring Implementation of “Support to Justice Reform in Armenia – Phase II” and the Justice Reform Progress
Title	Third Session of the Public Council Under the Minister of Justice of the Republic of Armenia
Date:	February 10, 2015
Location:	Ministry of Justice of the Republic of Armenia
Attendees:	RA Minister of Justice, Deputy Minister of Justice, Heads of MOJ Departments, Head of the MOJ Legal Institution, NGO representatives, representative of the EU Delegation to the Republic of Armenia, EU Experts
Minute Taker:	Siranush Iskandaryan, Civil Society/Civil Advocacy Expert

A G E N D A

- 17:00-17:05 Welcoming speech
Mr. Hovhannes Manukyan, Minister of Justice of the Republic of Armenia
- 17:05-17:20 Draft Laws on Making Amendments to the Law “On Non-Governmental Organizations” and Other Relevant Laws.
Mr. Arsen Mkrtchyan, First Deputy Minister of Justice of the Republic of Armenia
- 17:20-17:40 Discussion
- 17:40-17:55 Draft Laws “On Making Amendments and Supplements to the RA Criminal Code” and “On Making Amendments and Supplements to the RA Criminal Procedure Code”
Mr. Arman Tatoyan, Deputy Minister of Justice of the Republic of Armenia
- 17:55-18:15 Discussion
- 18:15-18:30 Presentation
Draft RA Government Decision on Creating a Board to Fight Against Corruption and a Committee and on Approving the Procedure of Functioning of the Board, the Committee and the Monitoring Division of the Anti-corruption Projects of the RA Government Staff
Mr. Suren Krmoyan, Deputy Minister of Justice of the Republic of Armenia
- 18:30-18:50 Discussion

- 18:50-19:05 Draft Laws on Making Amendments and Supplements to the RA Law on Arbitration and to the RA Civil Procedure Code
Aghanik Avetisyan, Expert of the Legislative Development and Legal Analysis Department of the Ministry of Justice of the Republic of Armenia
- 19:05-19:25 Discussion

Topics Discussed

I. Draft Laws on Making Amendments to the Law “On Non-Governmental Organizations” and Other Relevant Laws

- Mr. Norayr Balayan from the Ministry of Justice (MOJ) informed the members that the NGO Law (the Law) and the amendments thereto have been discussed with the civil society representatives a number of times before, including one in December 2014. And the purpose for presenting the amendments to the Law at the Public Council meeting was to keep its members informed about the Draft amendments to the Law.
- The Public Council members representing the NGOs were interested to know whether or not discussion of the changes was conditional under some Project. The response of the representative of the MOJ was that it was envisaged under the Concept Paper adopted by the Government. The Public Council members further suggested that discussions of the amendments should be made subject of a separate discussion. In addition, some members expressed concern over the fact that not all recommendations proposed during its discussion by the civil society representatives back in December 2014 were reflected in the current draft.
- It was suggested by the members and accepted by the MOJ that the draft amendments to the Law would be discussed at the Working Group meeting scheduled for February 12, 2015 to be convened specifically for the given purpose. The Draft amendments then would be finalized by the Working Group and then only would be presented and discussed at the next Public Council Meeting under the Minister of Justice.

II. Draft Laws “On Making Amendments and Supplements to the RA Criminal Code” and “On Making Amendments and Supplements to the RA Criminal Procedure Code”

- Mr. Arman Tatoyan, the Deputy Minister of Justice spoke about the ongoing processes in relation to amendments of the RA Criminal Code and the RA Criminal Procedure Code.

He further informed that public consultations would take place to introduce in detail the new Criminal Code. According to him, efforts were in place also to develop a new Penitentiary Code.

- The Public Council Members raised questions regarding the definition of “torture” in the Draft Law. Mr. Tatoyan informed that the definition should be in line with the UN Convention Against Torture.¹ He further stated that the matter was presented and discussed with representatives of the Council of Europe expert group.
- The alternative version of the Draft Law was introduced by the Public Council member Mr. Zeinalyan. Mr. Zeinalyan suggested that the justifications to his alternative draft would be submitted as well. It was the decision of the Public Council Members that the alternative draft could not be discussed at the meeting as certain amount of time was required for them to familiarize themselves with the alternative draft and to form their position in regard to it. It was further agreed that Mr. Zeinalyan would submit both his alternative draft and the justifications to the MOJ for consideration, possible incorporations and further public discussions/consultations.
- Mr. David Amiryan from the Open Society Foundations Armenia informed that on February 19, 2015 the CPT² meeting would be held in Yerevan to discuss the Criminal Code amendments and related matters. In May Armenia would host another international meeting aimed to exchange ideas on the topic of “torture”.

III. Draft RA Government Decision on Creating a Board and a Committee on Fight Against Corruption and on Approving the Procedure of Functioning of the Board, the Committee and the Monitoring Division of the Anti-corruption Projects of the RA Government Staff

- Ms. Mariam Galstyan, assistant to the Deputy Minister of Justice presented the Draft Decision on formation of the Council on Fight Against Corruption (Council). According to the designed structure, the Council would be headed by the RA Prime Minister and would have as members public Ministers, also five MPs representing the opposition factions and two civil society NGO representatives. The selected NGOs would be engaged on the principle of rotation. The requirement for the NGO selection is that the

¹ The UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

² European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

program of “fighting against corruption” should be envisaged in their respective Organization Charter and they should have engagement in the area for a number of years. As regards the engagement of the opposition MPs, the Prime Minister would ask the Chairman of the RA National Assembly for candidates to fill in the Council membership.

- According to the arranged plan, the Council would carry out surveillance over the performance of its obligations by Armenia. The assessments would be done by the independent expert group. The number of experts is not defined yet. The funding of the Council and the expert group would be done by the Government and the donor organizations.
- The members of the Public Council voiced strong concern over the creation and functioning of the Council. Mainly, they stated concerns that the Council would not be an independent body given its structure and the composition. They asked whether some criteria are envisaged for selection of NGOs, as well as the opposition MPs.
- Other concerns expressed were the conflict of interest present in the case, as the Prime Minister could not judge the effectiveness of the work of the Government that he heads and thus the functioning of the Council would yield no results.

Recommendations made by the Public Council Members included:

- The Public Council members suggested as to whether or not an assessment was done to review/assess the previous anti-corruption efforts undertaken by the Government.
- The name of the Council should be changed to read as “Corruption Risks Assessment Council”;
- Enlarge the number of NGOs represented in the Council;
- Change the name of “opposition MPs” to read as “MPs representing the non-governmental parties” and define standards for engagement for the non-governmental MPs;
- The Council would develop recommendations for the National Assembly to consider when adopting Laws and for the Government to adopt actions;
- The Council would address conflict of interest matters;
- Call back the Draft and conduct further studies to design the structure and functioning of the Council for it to be more efficient.

IV. Draft Laws on Making Amendments and Supplements to the RA Law on Arbitration and to the RA Civil Procedure Code Relevant to Mediation

- Discussion started by Ms. Liana Ghaltaghchyan stating that elaboration of New Draft Law on Arbitration is in initial stage and in the focus of MoJ attention. Following the introduction, Mr. Aghanik Avetisyan, the expert of the MOJ Legislation Drafting and Legal Analysis Department presented the advantages of both Arbitration and Mediation.
- Furthermore, Mr. Avetisyan informed that to keep pace of developments at this stage the MOJ undertook efforts to amend the RA Law on Arbitration (the Law) before drafting entirely new Draft Law on Arbitration. The Current Law of 2006 was adopted in consideration of the UNCITRAL Model Law on International Commercial Arbitration, however the Model Law was subsequently amended. Thus, the purpose of the current amendments is to reconcile the Law with the international standards. The provision referring to the conduct of the arbitrators would be developed. Following this, the arbitrators may separately adopt their own rule or code of conduct. The Draft Law is not yet circulated among the stakeholders, but is rather in the process of being finalized.
- According to Mr. Avetisyan, the provision on mediation will entail amendments to the RA Civil Procedure Code, the Judicial Code and the State Duty Law. The Draft amendments are in the stage of being finalized.

The respective draft amendments would be substantially discussed at public events scheduled in the end of February 2015.

Next Steps

- The MOJ representatives agreed to inform the Public Council members about the upcoming legal initiatives well in advance to secure their full and meaningful participation in the Public Council Meetings;
- The Public Council Members agreed to submit their comments to the drafts, as well as their recommended versions of drafts in writing to MOJ accompanied with justifications.