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Event 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	Second Steering Committee Meeting of the “Support to Justice Reform in Armenia – Phase II” Project
Date:	July 22, 2015
Location:	Ministry of Justice of the Republic of Armenia (MOJ)
Attended:	<p>Steering Committee Members: Mr. Arsen Mkrтчyаn, Acting Minister of Justice, First Deputy Minister of Justice; Mr. Vigen Kocharyan, Deputy Minister of Justice; Mr. Georgi Khachatryan, Head of Judicial and Legal PIU; Ms. Anna Vardapetyan, Acting Head of the Judicial Department; Mr. Arthur Maysuryan, Ministry of Economy; Mr. Mher Hakobyan, the Office of the Prosecutor General; Ms. Ruzanna Gabrielyan, Ministry of Finance; Messrs. Mr. Jose-Maria Medina-Navarro and David Avakian, EU Delegation to the Republic of Armenia.</p> <p>Steering Committee Observers: MOJ Staff, EU Review experts.</p> <p>NGO representatives: Mr. Arshak Gasparyan, “Social Justice” NGO; Mr. Vigen Khachatryan, “Armenian Center of Law” NGO; Mr. Tigran Grigoryan, “Rights and Democracy” NGO; Ms. Haikuhi Harutyunyan, “Protection of Rights Without Limitation” NGO.</p> <p>Foundation: Mr. Arman Khachatryan, Eurasia Partnership Foundation.</p>

A G E N D A
Ministry of Justice of the Republic of Armenia
July 22, 2015.

10:00 -10:10 *Welcoming speech*

Mr. Arsen Mkrtchyan,
Acting Minister of Justice, First Deputy Minister of Justice of the Republic of
Armenia

10:10 -10:20 *Welcoming Speech*

Mr. Jose-Maria MEDINA-NAVARRO
Deputy Head of Cooperation Section
Delegation of the European Union to the Republic of Armenia

10:20 -11:20 *Presentation*

Activities Performed Towards Implementation of the Specific Conditions as
Envisaged Under the “Support to Justice Reform in Armenia – Phase II” Project

Mr. Georgi Khachatryan, Head of Legal and Judicial PIU of the Ministry of Justice
of the Republic of Armenia

11:20 -12:10 *Discussion*

Topics Discussed

I. Welcoming Remarks to the Steering Committee Members and Observers

- Mr. Arsen Mkrtchyan, the Acting Minister of Justice, First Deputy Minister of Justice of Armenia (MOJ) welcomed the members and the observers of the Steering Committee Meeting (SCM) and stressed the importance of convening the SCM.
- Mr. Jose-Maria Medina-Navarro, Deputy Head of Cooperation Section of Delegation of the European Union to the Republic of Armenia (EUD) welcomed the SCM participants. He stressed that the judicial reforms in Armenia were key to the Eastern Partnership. According to Mr. Medina-Navarro the “Support to Justice Reform in Armenia – Phase I” Project was a success; the “Support to Justice Reform in Armenia – Phase II” Project was

half-way through its implementation, which hopefully would also be successfully accomplished and next project of up to 30 mln. euro would hopefully follow as a next project. Mr. Medina-Navarro informed the SCM participants that strengthening the independence of judiciary in Armenia was emphasised at the summit at the EU level.

Mr. Medina-Navarro further stated that the EUD received the letter from the MOJ with the request to be allowed to complete some additional conditions in September of 2015 meaning that additional documentation and proofs would be delivered to the EUD at that point. In the given regard Mr. Medina-Navarro informed that the documentation would be discussed at the EUD and would be sent to Brussels.

- Mr. David Avakian, EUD informed that the documentation should be received at the EUD by September 15 of the current year, otherwise the payment of the second variable tranche might be delayed till the coming year.
- Mr. Mkrtchyan noted that the MOJ would make the list of the exact documents that were required to be submitted to the EUD. Many of the proofs/evidence were already ready and the MOJ would like to have the exact list of other documents awaiting for submission.

II. Status of Performance of Specific Conditions for disbursement of the 2nd Variable Tranche

4th condition related to transparency and accountability of the judicial sector

4.1 Statistical indicators (both for courts and judges) in line with recognized EU/international standards

- Mr. Goergi Khachatryan, the Head of Legal and Judicial PIU of the Ministry of Justice of the Republic of Armenia presented the status of performance of the specific conditions under the 2nd variable tranche. In regard to Condition 4.1 Mr. Khachatryan stated that the issue was regulated by Law and the Government Decision, whereby the Judicial Department is in charge of administering the judicial statistics.
- Mr. Peter Tasker, the review expert, made a remark that an issue existed in regard to the given condition, mainly that a number of documents were still awaiting to be submitted to the review team.

- Mr. Mkrtchyan requested the expert to specify the list of the exact documents that were awaiting for submission.

4.2 Automatically retrieved from an implemented and functioning Court Management Information System and are analyzed in semi-annual reports published by judiciary

- According to Mr. Khachatryan, the review experts were able to check and assess the functioning of the system.

4.3 All new court records and archived records for the past 3 years (2010, 2011, 2012) are digitalized

- Mr. Khachatryan informed that the digitization process had not been started, as adequate technical capacity was required to accomplish the digitization and to secure its maintenance in a sustainable manner. In regard to the given component, the MOJ made a request that assessment of the given condition be delayed and it be assessed together with the conditions under the 3rd variable tranche and requested approval of the SC.
- Mr. Mkrtchyan added that additional resources were required to accomplish the task. He had an opportunity to discuss the matter with the Judicial Department to start and finalize the work. The Acting Minister of Justice mentioned that the Government of Armenia very much recognized the importance of digitization of the court records and he also voiced the request to have the condition assessed later when doing assessment of the conditions under the 3rd tranche. He mentioned that the main issue that they were facing was lack of funds and MOJ discussed the matter with USAID to check the possibility of donor funding or else the activity would be funded by the State budget resources.
- According to Mr. Khachatryan, the relevant information was fully reflected in the Progress Report on Implementation of Conditions for Disbursement of the Second Tranche developed by the MOJ (Progress Report).

4.4 An action plan for further archive digitalization is developed and approved

- Mr. Khachatryan stated that the head of the Judicial Department of Armenia adopted the Decision on further archive digitalization action plan. The Progress Report reflected the relevant information.

4.5 Rules covering full public access to court records, archives and statistics are defined and applied

- Mr. Khachatryan stated that the Progress Report properly provided information about the domestic legal acts ensuring full public access to information, including to the court records, archives and statistics. According to Mr. Khachatryan, the given condition was fully accomplished.

4.6 Establishment of electronic system of e-filing for civil and administrative court cases

- Mr. Khachatryan reported that the electronic system of e-filing would be fully functional this autumn. The system was not made publicly accessible yet. Some works still needed to be done here as servers were also required. Mr. Khachatryan requested that assessment of the particular condition be postponed and be assessed together with the conditions of the 3rd variable tranche and requested approval of the SC.
- In the given regard Mr. Mkrtchyan added that there remained issues with the electronic digital signature and so integration of systems was required so that when receiving the e-case the judges would see no problem in verifying the validity of such cases.

4.7 Objective criteria for random assignment of cases that takes into account the specialization of judges is defined by law, covering all cases, and including regional courts where there is more than one judge

- Mr. Khachatryan reported that the system was fully functional in Yerevan for more than one year already and currently also functional in Marzes. The procedure of random assignment of cases was envisaged by a legal act and thus functioning of the system was secured all over Armenia.

III. Review Expert's Comments to the performance of the specific components of the 4th condition

- Mr. Tasker noted that in regard to the Court Management Information System, the system was automated and covered information about the courts. However, the information was not presented in the Judicial Department site and they conducted it manually by reconciling the data. The Judicial Department awaited for the relevant data and they tried to reconcile those.
- In regard to the given issue Mr. Khachatryan responded that they actually had two days of long discussions with Mr. Tasker to show that the *datalex* domain also belonged to the judicial system and that the MOJ judicial statistics section referred to the *datalex*.

- Mr. Tasker added that the issue was whether *datalex* was a judiciary site or not, there was an issue of reconciling and according to him the Judicial Department did it manually.
- Mr. Mkrtchyan expressed surprise over Mr. Tasker's remark and mentioned that Mr. Tasker was not fully informed about the existing situation. According to Mr. Mkrtchyan the system was fully automated since 2008 and he himself acted as the author of the project. According to the Government Decision the data is presented on every 6 month basis and is regularly updated. What is done manually is the data analysis. A separate Government Decision defines as to what data should be analyzed and both the information and analysis is posted in *court.am* site.
- Mr. Tasker replied that the issue was about drawing the data from the system, analysis and presenting it to the public, it should come from the judiciary.
- Mr. Mkrtchyan summarized the issue by requesting the acting head of the Judicial Department to secure in *court.am* site for Mr. Tasker and for everyone the visibility of the judicial statistics.
- In regard to the issue of archiving Mr. Tasker stated that the current cases should also be archived. The action plan should stipulate the starting process, as it looked currently the action plan was not a full action plan.
- According to Mr. Tasker there was an issue of freedom of information, there was no access to information. As to the random assignment of cases, the system worked but was not fully functional. The whole 4th condition should be assessed altogether and in the event of resolving the pending issues 50% of the disbursement would be secured. In regard to moving the assessment of certain activities to the next tranche it remained to be discussed and decided by the EU and the Government of Armenia.
- Mr. Mkrtchyan noted that digitization of the court records and archived records remained in the center of attention of the Armenian Government.
- Mr. Medina-Navarro stated that the MOJ might have their own position and the review experts their own, however the final decision would be taken at Brussels. It would be crucial to have evidence to proof that the Judicial Department published the data on semi-annual basis.
- In regard to moving assessment of certain activities to the next tranche, Mr. Medina-Navarro stated that it should be done under exceptional circumstances, there should be

very strong justification. The fact that the works were delayed would not suffice but rather that there were political circumstances.

- Mr. Mkrtchyan ended by saying that the digitization was exceptional as it was done on full scale and they would be able to provide strong justification in regard to the given condition.

IV. Status of Performance of the 5th Condition Related to Better Trained Judges, Prosecutors and Advocates

5.1 The Justice Academy is functioning in line with the final report of EU-CoE EJREPC joint project

5.2 Cooperation between the Justice Academy and the School of Advocates is legally established and implemented

- Mr. Khachatryan informed that they looked with the review experts performance of the given condition and there were no disagreements as to its performance. Mainly, the MOU was signed, the joint trainings were organized and more documents would be presented in the nearest days as a proof of sustainability of the project.
- Mr. Tasker responded by saying that the MOU was signed and 2 trainings organized, however there should be a program of joint trainings. He mentioned that the Justice Academy was putting together the program for the coming 6 months and the program should envisage the joint trainings.
- Mr. Mkrtchyan mentioned that the program was already developed and presented to the approval of the Governance Board. He was well informed of this as a Governance Board member and the Board would convene on July 23, 2015 to approve the training program.
- Mr. Medina-Navarro thanked Mr. Tasker for looking thoroughly at matters and advised to have the program approved so that 100% of disbursement should be secured with respect to the given condition.

V. Status of Performance of the 6th Condition Related to Free Legal Aid

6.1 Increased financing for free legal aid taking as a baseline the year 2013

- According to Mr. Khachatryan the funding of the public defenders from the state budget was increased by 15 mln. Drams. The relevant justifications would be delivered to the

EUD. In addition, the review experts were provided with the copy of the Grant Agreement signed between the Armenian Government and the World Bank (WB) for the amount of USD 468000 (four hundred and sixty-eight thousand). This should be directed to improving the quality of the free legal aid.

6.2 Necessary building infrastructure for Public Defender's Office in Yerevan and all regions are identified, rehabilitated and fully equipped by the Government

- Mr. Khachatryan informed that all the public defenders were provided with sufficient building infrastructure in Marzes and in Yerevan. All the public defenders are fully equipped with premises and facilities. The Armenian Government supports the public defenders.

6.3 All Public Defenders received compulsory training at the School of Advocates

- Mr. Khachatryan stated that the public defenders by their definition were advocates and according to the RA Law on Advocacy they should participate in 24 hours of mandatory training, otherwise they would be subject to disciplinary actions. The Board of Advocates approved the training program and the schedule of the trainings.

VI. Review Expert's Comments to the performance of the specific components of the 6th condition

- Mr. Tasker mentioned that they were informed that trainings were held in Yerevan and also in Marzes. The review team was awaiting for some evidence from the Chamber of Advocates of the defenders' participation in trainings.
- Mr. Tasker informed that the review team visited 5 public defender's offices in Yerevan and also in Marzes, the equipment was not very new but they served the purpose.
- Mr. Tasker stated that the review experts were looking to the details of the WB grant and the major component there was to use students in the legal clinic. To Mr. Tasker that was useful but he did not consider that it would increase the free legal aid. It was good though that the students were going to be engaged in pro bono work.
- Mr. Tasker mentioned that the state budget allocations to the public defenders increased by 5.8% in 2014 and increased by 5.5% in 2015 as a statutory requirement to increase the labour costs but that was not sufficient to increase the free legal aid and that the number of defenders were not increased.

- Mr. David Avakian, informed that according to the Report delivered by the previous budget support project, the number of public defenders in Armenia was more than in any EU country as per capita number of the population. He directed a question to Mr. Tasker whether he considered the number of public defender should be increased still more.
- Mr. Khachatryan stated that the public defenders were only one element of providing free legal aid, the free legal aid in Armenia was not limited to just public defenders. The functioning of the legal clinic supported that more beneficiaries received the free legal aid.
- Mr. Avakian asked a question to Mr. Tasker as to whether the review team was expecting information from the Chamber of Advocates about finances. Mr. Tasker confirmed.
- Mr. Tasker informed that the review team was not aware of a Government program about the free legal aid activities in Armenia.
- Mr. Mkrtchyan stated that less information was presented to the review team than it actually existed. He added that the legal clinics should be considered as a source of free legal aid. He advised that the Armenian legislation provided tax exemptions to the advocates and notaries for doing pro bono work. The Acting Minister of Justice mentioned that the MOJ would be ready to provide with cases, precedents, evidence in the given regard. The Acting Minister of Justice, First Deputy Minister expressed concern that the review experts interpreted the condition narrowly and he requested that they take full consideration of the domestic legislation, including tax laws, judicial procedures and the actual cases.
- Mr. Mkrtchyan suggested that the directions of the given condition needed to be clarified. He requested that in the event that the condition was interpreted by the review experts in their unique way whereby free legal aid is interpreted to mean as the public defenders only, then the assessment of the given condition should be postponed till the interpretation is clarified.
- Mr. Medina-Navarro suggested that the MOJ continue to work with the review team, once the Report by the review team was made final the EU would have its view.
- Mr. Mr. Medina-Navarro advised to justify as to how the additional resources improved the free legal aid in Armenia.

- Mr. Mkrtchyan expressed surprise that the review experts looked at the matter only from the point of view of the salary increase, he reiterated that the free legal aid was not just limited to the public defenders.
- Mr. Tasker agreed that the review team was awaiting for the justifications from the Chamber of Advocates and that they were ready to get any justifications/arguments in regard to the given condition.
- Mr. Mkrtchyan requested his staff to supply to Mr. Tasker with the full information so that the performance of the condition would be considered fully met.
- Mr. Medina-Navarro informed that the EU would assess the results and there should be information on the number of beneficiaries receiving the free legal aid.

VII. Status of Performance of the 9th Condition Related to Development of an ADR Model

9.1 An Arbitration Code, other ADR rules, and a Code of Ethics for arbitrators are developed and applied, their legal basis is ensured, and

9.2 A comprehensive course on the nature of arbitration, recognition and enforcement of arbitral awards is developed and integrated into the curricula of continuous training for judges and advocates

- Mr. Khachatryan informed that the new Law on Arbitration was adopted in line with the best international practice and the UNCITRAL Model Law. The Mediation package was also adopted. In regard to both arbitration and mediation there was adoption and enforcement. Mr. Khachatryan mentioned that the proofs would be provided to the EUD, as well as to the review experts.
- Mr. Mkrtchyan advised that the new provisions of the Law on Arbitration needed to be looked at carefully, as due to the amendments arbitration applied as well to the labour disputes, family cases. Thus the application of the law should be looked in consideration of the given condition. Mr. Mkrtchyan added that the MOJ would be ready to provide information on enforcement of the law and suggested that the review experts meet arbitrators and mediators to see that they actually apply the new legislation.
- Mr. Mkrtchyan clarified the provisions relevant to the mediators. He explained that according to the new legislation any person could act as a mediator if chosen voluntarily by the parties. In regard to the court-assigned mediation – the mediators here need to be

certified. The training program is ongoing and by September of the current year there would be certified mediators. The institution works and they apply the new mediation legislation. 2 cases are already filed, including family and labour disputes. In regard to the voluntary (non-certified) mediators the Law is in effect, whereas in regard to the certified mediators, the Law would become effective in September of the current year.

- Mr. Avakian asked about availability of statistics on ADR cases.
- Mr. Mkrtchyan replied that ADR centers as private organizations applied the new legislation and they received the ADR cases. He advised that the review experts meet with the ADR centers to get information on statistics and the actual enforcement of the new legislation.
- Mr. Tasker noted that the review experts needed justification on the training and also evidence on cases, otherwise the given component of the condition would be considered half met.
- Mr. Mkrtchyan asked his staff to pass to the review experts the training program. In addition, he mentioned about the ADR trainings held in March, 2015 with the support and assistance of the EU “Support to Justice Reform in Armenia – Phase II” Project, as well as the training held in June 2015 with the support of the Council of Europe. In September 2015 the registry of the mediators would be ready.
- Mr. Gevorg Tumanov, MOJ was interested to learn from the review team about the assessment results of the civil registry condition under the 1st variable tranche of the program. Mr. Tasker replied that the condition was assessed as fully met.

VIII. Ending Discussions Between the SCM Participants as to the Timing and Conditions Pertaining to the Program Conditionalities

- Mr. Medina-Navarro stressed that the case of the civil registry was an example of an exceptional circumstance. He urged the MOJ to provide justifications in regard to each case as the decision would be taken in Brussels.
- Mr. Mkrtchyan stated that the MOJ regarded the performance of the conditions very seriously and he expressed gratitude to the experts for looking thoroughly at issues.
- Mr. Arthur Maysuryan, RA Ministry of Economy, asked as to when the review team would deliver the Assessment Report and whether or not the Armenian party would be

given an opportunity to respond to the Report. Mr. Maysuryan's second question was as to when the disbursement letter should be issued by the Ministry of Economy.

- Mr. Medina-Navarro advised that they needed to receive all the justifications by September of the current year and afterwards these should go through the process in Brussels, so the advice would be to submit the relevant information as soon as possible.
- Mr. Avakian noted that the review team was ready to provide the Report as of the given day, however they were awaiting for some information/justifications from the Armenian side.
- Mr. Medina-Navarro added that the decision would be taken in Brussels and they would consider both sides, meaning the Review Team Report, as well as the opinion of the Armenian Party.
- Mr. Tasker informed that the review/assessment of the 3rd tranche of conditions should be conducted in April/May of 2016. Submission by the Armenian party of all the relevant information/justifications by March 2016 was an absolute deadline and not subject to any delays.
- Mr. Avakian informed that the review experts had a contract, which could not be extended.
- Mr. Mkrtchyan made the closing remarks. He expressed his gratitude to the review team and the SCM participants.