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**ISTANBUL ANTI-CORRUPTION ACTION PLAN**

**THIRD ROUND OF MONITORING**

**TADJIKISTAN**

**PROGRESS UPDATE**

This document contains the progress update of implementation of recommendations from the Third Round of Monitoring of the Istanbul Anti-Corruption Action Plan for Tajikistan.

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## BACKGROUND

### **About the OECD**

The OECD is a forum in which governments compare and exchange policy experiences, identify good practices in light of emerging challenges, and promote decisions and recommendations to produce better policies for better lives. The OECD's mission is to promote policies that improve economic and social well-being of people around the world. Find out more at [www.oecd.org](http://www.oecd.org).

### **About the Anti-Corruption Network for Eastern Europe and Central Asia**

Established in 1998, the main objective of the Anti-Corruption Network for Eastern Europe and Central Asia (ACN) is to support its member countries in their efforts to prevent and fight corruption. It provides a regional forum for the promotion of anti-corruption activities, the exchange of information, elaboration of best practices and donor co-ordination via regional meetings and seminars, peer-learning programmes and thematic projects. ACN also serves as the home for the Istanbul Anti-Corruption Action Plan. Find out more at [www.oecd.org/corruption/acn/](http://www.oecd.org/corruption/acn/).

### **About the Istanbul Anti-Corruption Action Plan**

The Istanbul Anti-Corruption Action Plan is a sub-regional peer-review programme launched in 2003 in the framework of the ACN. It supports anti-corruption reforms in Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Mongolia, Tajikistan, Ukraine and Uzbekistan through country reviews and continuous monitoring of participating countries' implementation of recommendations to assist in the implementation of the UN Convention against Corruption (UNCAC) and other international standards and best practice. Find out more at [www.oecd.org/corruption/acn/istanbulactionplan/](http://www.oecd.org/corruption/acn/istanbulactionplan/).

## PROGRESS UPDATE METHODOLOGY

After the adoption of the Monitoring Report, the evaluated country presents a Progress Update at each subsequent ACN Plenary meeting.

The **Progress Update** begins with a description of the methodology, followed by the summary of the assessment of implementation of recommendations, as agreed during the Plenary Meeting of September 2016. It then goes into each recommendation separately, providing the country report, as well as the ACN and expert evaluation.

**The Progress Update follows the following steps:**

### **1. Progress Update reports are prepared by country representatives**

These documents include information on implementation measures taken for each recommendation, and may also cover additional anti-corruption developments. Country representatives submit a written Progress Update report to the ACN Secretariat through appointed National Co-ordinators, together with supporting documents, such as laws and statistical data. Civil society also submits alternative reports on progress.

### **2. Preparation of preliminary assessment by ACN Secretariat and experts**

The Secretariat and the experts who contributed to the Monitoring Reports (or delegates replacing the experts) study the Progress Update reports and prepare a draft progress assessment for the Plenary Meeting. Civil society is also invited to contribute to the evaluation.

### **3. Discussion at ACN Plenary meeting**

ACN Secretariat and experts discuss the Progress Update during a bilateral preparatory meeting with country representatives. The Plenary then discusses and endorses the assessment.

### **4. Finalisation of Progress Update**

Following the Plenary Meeting, the Secretariat adds the final assessment to the Progress Update reports, finalises and publishes them on the ACN website.

## PROGRESS UPDATE SUMMARY

Information to be added

**Note:**

**Significant progress** - important practical measures were taken by the country to adequately address many elements of the recommendation (more than a half). This can involve the adoption and/or enforcement of an important law.

**Progress** - some practical measures were taken towards the implementation of the recommendation. For example, drafts of laws that have been at least approved by the government and submitted to the parliament would constitute "progress" for the assessment of Progress Updates.

**Lack of progress** - no such actions were taken.

Recommendations, that appear to be fully addressed can be closed for the progress update procedure and further evaluated only as a part of the monitoring procedure.

## PILLAR 1. ANTI-CORRUPTION POLICY

### Recommendation 1

*To work out very specific measurable criteria of assessment of achievement of the goals and performance of the measures for implementation of the Anticorruption Strategy for 2013–2020 of the Republic of Tajikistan and add them to the Strategy providing information (data) sources, on the basis of which achievement of the Strategy’s goals will be assessed, as well as agencies responsible for collection of such information.*

*To ensure most active participation of all state power bodies (republican and local) in development, implementation, assessment of implementation of the national anticorruption strategy, allowing the state authorities to submit proposals on changing and amending the Anticorruption Strategy for 2013-2020 of the Republic of Tajikistan.*

*To ensure effective monitoring of implementation of the Anticorruption Strategy for 2013-2020 of the Republic of Tajikistan, guaranteeing that the agency, which is authorized to carry out monitoring and control functions, have sufficient powers and resources to take decisions or to initiate solution of problems related to non-implementation or insufficient implementation of the Strategy, to perform quality analysis and assessment of information on implementation of the Strategy, have the right to receive information related to implementation of the Strategy from all executing organizations of the Strategy, and also that this right is supported with the respective obligation of the executing organizations of the. Also to stipulate more regular monitoring (every half-year) in order to quickly react to non-implementation or insufficient implementation of the Strategy. To ensure that in the course of assessment of implementation of the Anticorruption Strategy for 2013–2020 of the Republic of Tajikistan (monitoring) there should be considered the results of comprehensive research of the nature of corruption and its penetration into the state power bodies.*

*To continue disseminating information on the Anticorruption Strategy for 2013–2020 of the Republic of Tajikistan and its implementation and to pay more attention to the results of implementation of the Strategy, so that every executing organization of the Strategy could feel its responsibility towards the society and the society would know its right to request from the state authorities effective implementation of the Strategy.*

*To continue engaging the civil society into all related processes: implementation, monitoring and control over implementation, analysis and update of the Strategy; to use best efforts so that these processes could become a joint work of the state authorities and non-governmental structures.*

*To ensure necessary financing of implementation of the Anticorruption Strategy for 2013–2020 of the Republic of Tajikistan by providing for the respective funds for realization of measures, which cannot be performed at the expense of the state executing organizations of the Strategy (i.e. measures which are not directly connected with the functions of the state body or which require additional financing) in the Strategy itself or to stipulate for obligation of all state authorities to perform measures for implementation of the Strategy in their intradepartmental plans for two years and to allocate relevant financing.*

**17<sup>TH</sup> ACN Plenary Meeting, September 2016**

***Measures taken to implement the recommendation***

The Anticorruption Strategy of the Republic of Tajikistan for 2013-2020, as a promising mid-term program act of Tajikistan's policy in combating corruption, is aimed at reducing the intensity and level of corruption in the country and is carried out by the government and civil society in cooperation with the international (global and regional) organizations.

It should be noted that the Action Plan of the Anticorruption Strategy of the Republic of Tajikistan for 2013-2020 contains separate items, such as the objectives (expected results), performance evaluation criteria (indicators), and performers (public authorities and other agencies). In accordance with paragraph 6 of the Decree of the President of the Republic of Tajikistan On Anticorruption Strategy of the Republic of Tajikistan for 2013-2020 dated August 30, 2013 No. 1504, control over implementation of the Strategy is assigned to the National Anti-Corruption Council of the Republic of Tajikistan. The said Council collects necessary information from all the government agencies (Strategy performers) to evaluate the achievement of the objectives and makes decisions at its regular annual meetings.

In 2015 (116) and the 1st half of 2016 (75), to study and analyze the state of implementation of the Anticorruption Strategy of the Republic of Tajikistan for 2013-2020, the employees of the Agency for State Financial Control and Combating Corruption of the Republic of Tajikistan carried out 191 monitoring inspections at the ministries, agencies, and local authorities. Following the inspections, the ministries, agencies, and local authorities received written orders and suggestions on the shortcomings identified in relation to the implementation of the Anticorruption Strategy of the Republic of Tajikistan for 2013-2020. The consideration of the orders is mandatory and the results are to be reported to the Agency.

In addition, in 2015, a report was submitted to the President of the Republic of Tajikistan following the monitoring of the Strategy implementation. The results of the said monitoring were reviewed at the meeting of the National Anti-Corruption Council of the Republic of Tajikistan on December 25, 2015.

The government, both the national and local, was found to actively participate in the implementation of the Anticorruption Strategy and contribute to the timely implementation of separate items of the Strategy.

***Assessment of Progress - 17<sup>th</sup> Plenary***

**SIGNIFICANT PROGRESS/PROGRESS/LACK OF PROGRESS**

Text

**Recommendation 2**

***Ensure that comprehensive sociological surveys of corruption in all branches of power and the public service are conducted periodically at least every third year and their results are used in the development of the anticorruption policies. Such survey should be based on a methodology which will cover all relevant state and local authorities and will ensure comparability of the results. Such surveys should not only cover the attitude of population towards corruption, but also its actual experience with corruption.***

**17<sup>TH</sup> ACN Plenary Meeting, September 2016**

***Measures taken to implement the recommendation***

A decision to conduct regular comprehensive studies, including sociological surveys, is reflected in the Anticorruption Strategy of the Republic of Tajikistan for 2013-2020.

The Centre for Strategic Studies under the President of the Republic of Tajikistan (hereinafter referred to as the 'Centre') has developed and tested the methodology of sociological studies on corruption issues within the framework of research projects carried out in 2006, 2010, 2011, and in 2015.

*The research methodology in 2015.* An survey on corruption was carried out by the Centre between August and November 2015.

The target audience was the population (households), government employees, and entrepreneurs. In total, 2993 respondents were polled from a sample representing the urban and rural population over 18 years of age.

Table 1.

Distribution and number of sociological research profiles by groups of respondents

No.	Groups of Respondents	Number of Profiles	Percentage Distribution by Key Respondents
	The population (adult household members), including:	1467	100,0%
	- men	748	51,0%
	- women	719	49,0%
	Entrepreneurs, including the ones working in the private sector:	616	100,0%
	- in agriculture (farmer households)	151	24,5%
	- in industry	90	14,6%
	- in the service sector	375	60,9%
	Civil servants, including employees of:	910	100,0%
	- committees and ministries	325	35,7%
	- local government	585	64,3%

The study was conducted in 36 cities and districts of the country, covering almost all regions of the country:

- Dushanbe (Ismaili Somoni, Sino, Firdavsi, and Shokhmansur districts),
- cities and districts of republican subordination (Vakhdat and Tursunzade cities, Rasht, Rudaki, Khissar, and Dzahirital districts),
- cities and districts of Sogd Oblast (Khudzhand, Isfara, Istaravshan, Kanibadam, Chkalovsk, and Pendzhekent cities, and Aini, B. Gafurov, and Gonchi districts),
- cities and districts of Khatlon Oblast (Kurgan-Tiube, Kuliab cities, Bokhtar, Vakhsh, Vose, Dangara, Dzhomi, Muminobod, Temurmalik, Khamadoni, Khuroson, and Yavan districts),
- cities and districts of Gorno-Badakhshan Autonomous Oblast (city of Khorog and Vanch, Ishkashym, Rushan, and Roshtkala districts).

Table 2.  
Distribution and number of sociological research profiles by regions

No.	Regions	Number of Profiles	Percentage Distribution by Key Respondents
1.	Dushanbe	761	25,4%
2.	Districts of republican subordination	493	16,5%
3.	Khatlon Oblast	902	30,1%
4.	Sogd Oblast	683	22,8%
5.	Gorno-Badakhshan Autonomous Oblast	154	5,1%
	Total	2993	100,0%

The sociological survey, compared to the sociological studies on corruption carried out by the Centre earlier (before 2015), aimed particularly at:

- involving public authorities through a separate questionnaire, and
- evaluating corrupt practices in the process of organizing and conducting business activities.

Table 3.  
Distribution and number of sociological research profiles by groups of respondents

	Groups of Respondents	Years			
		2006	2010	2011	2015
	Respondents, total, including:	2054	3000	1144	2993
	Population	1769	1842	1000	1467
	Entrepreneurs	285	609	144	616
	Government employees	829	549		910

***Assessment of Progress - 17<sup>th</sup> Plenary***

**SIGNIFICANT PROGRESS/PROGRESS/LACK OF PROGRESS**

Text

### Recommendation 3

***Further enhance public participation in the fight against corruption encouraging and entering into constructive dialogue with a wide range of representatives of civil society at national and local levels and involve civil society in the work of the National Presidential Anticorruption Council.***

***Ensure establishment and effective functioning of the Public Commissions for Corruption Prevention by all local authorities as foreseen in the Strategy for the Fight against Corruption in Tajikistan in 2008-2012.***

#### 17<sup>TH</sup> ACN Plenary Meeting, September 2016

##### ***Measures taken to implement the recommendation***

The Agency for State Financial Control and Combating Corruption promotes constructive dialogue with the civil society at the national and local levels via seminars, round tables, meetings, and workshops with participation of the civil society.

In accordance with the Anticorruption Strategy of the Republic of Tajikistan for 2008-2012, independent commissions against corruption have been established under all local authorities to arrange and carry out activities on anticorruption education and raise awareness of the population. The activities of independent commissions are assessed by the Agency for State Financial Control and Combating Corruption annually.

Besides, the Agency, in cooperation with an international organization (OSCE) and NGO (Eurasia Foundation of Central Asia – Tajikistan), has conducted a number of training workshops to improve the anticorruption awareness of the members of independent commissions against corruption established under the local authorities.

For example, 3 workshops have been carried out in Khatlon Oblast, 1 workshop in Sogd Oblast, and 1 workshop in the districts of republican subordination (6 cities and regions), discussing powers of the independent commissions against corruption established under the local authorities and activity planning for the implementation of the Strategy.

It should also be emphasized that, to prevent corruption and involve citizens and NGOs of the Republic of Tajikistan, the Law On Anticorruption Expert Assessment of Laws and Draft Legal Acts has been adopted. In accordance with Article 13 of the said Law, the citizens and non-governmental organizations may carry out public assessment of laws and draft legal acts in the manner prescribed by the Law. A natural person having a degree in law and at least five years of related professional experience can be an expert.

NGOs have received the right to carry out anticorruption assessment of laws and draft legal acts if at least three persons that meet the requirements set out in paragraph 3 of this Article are on the of NGO staff. An anticorruption assessment report on laws and draft legal acts must point to the identified risk factors and suggest ways and tools to remove them. An anticorruption assessment report on laws and draft legal acts is to be forwarded to the relevant lawmakers for consideration. The citizens, NGOs, and initiators of the anticorruption assessment are to receive an argued refusal where a lawmaker fails to accept the anticorruption assessment report on laws and draft legal acts. The citizens and NGOs, should they disagree with the refusal to accept the anticorruption assessment report, may apply to the authority in charge of the state financial control and combating corruption.

##### **Assessment of Progress - 17th Plenary**

**SIGNIFICANT PROGRESS/PROGRESS/LACK OF PROGRESS**

Text

**Recommendation 4**

***Further extend the practice of strategic planning in anticorruption education and awareness raising activities conducted by public authorities and base it on the analysis of the current situation.***

***Identify target groups for anticorruption education and awareness raising, including the most vulnerable groups to corruption and the groups with the highest risk of corruption, and develop specific programs and messages for each group, stressing in the program practical aspects and concrete tools to fight and prevent corruption, and the rights of the citizens in their interaction with public institutions.***

***Develop and conduct assessment of efficiency and effectiveness of anticorruption education and awareness raising.***

***Employ specialists with anti-corruption education and awareness raising skills and experience in anticorruption area and continuously improve their qualification.***

***Develop joint anticorruption education and awareness raising actions with non-governmental partners.***

**17<sup>TH</sup> ACN Plenary Meeting, September 2016**

***Measures taken to implement the recommendation***

Bearing in mind the results of the survey to assess the level of corruption held by the Centre for Strategic Studies under the President of the Republic of Tajikistan between August and November, 2015, the Agency jointly with the Prosecutor General's Office of Tajikistan carried out 53 seminars and conferences in 2015 and 32 seminars and conferences in the 1st half of 2016.

Additionally, during 2015 and the 1st half of 2016, 539 and 357 meetings and interventions were conducted respectively in the areas of public administration where corruption tends to grow.

As has been stipulated before, during the 1st half of 2016, the Agency, in collaboration with the partner OSCE Office and Eurasia Foundation of Central Asia – Tajikistan non-governmental organization, carried out a number of educational seminars for the members of independent commissions against corruption at the executive committees of Khatlon Oblast and regions of republican subordination. The purpose of the seminars was to boost partnership between the civil society and the government sector, and build the anti-corruption capacity of non-governmental organizations in Tajikistan.

In accordance with the action plan for retraining and advanced training for civil servants that follows the action plan of the Institute of Public Administration under the President of the Republic of Tajikistan for 2016, approved by the Presidential Executive Office, 16 courses were carried out in the first six months of 2016: 3 refresher courses, and 13 training courses, including 8 off-base courses. 692 civil servants (53.9% of the annual plan), out of which 224 females (32.34%) and 468 males (67.6%), attended these courses.

It should be noted that the lecturers of higher educational institutions and experts of the General Prosecutor's Office and Agency for State Financial Control and Combating Corruption of the Republic of

Tajikistan carried out advanced training on such subjects as ‘Corruption as a social phenomenon: its concept and outline’, ‘Anti-Corruption Legislation of the Republic of Tajikistan’, ‘Ways to resist corruption’, ‘Code of ethics for civil servants’.

On May 17, 2016, the Institute held a republican academic conference ‘Current problems in the fight against corruption in the Republic of Tajikistan’ with the participation of representatives of the Presidential Executive Office, the Agency for State Financial Control and Combating Corruption of the Republic of Tajikistan, the Agency for Civil Service under the President of the Republic of Tajikistan, central and local government authorities, and representatives of educational institutions.

On June 3, 2016, the Agency also hosted a practical seminar on the topic of ‘Procedures for anti-corruption expert assessment of laws and draft legal acts’, with over 70 representatives of government agencies and non-governmental organizations attending it.

**Assessment of Progress - 17th Plenary**

**SIGNIFICANT PROGRESS/PROGRESS/LACK OF PROGRESS**

Text

**Recommendation 5**

***Establish all-national Anticorruption Council which should include representatives of all stakeholders. This Council should be dealing with strategic issues of fight with corruption and assisting with development and implementation of the anticorruption Strategy and measures taken in Tajikistan. The Council should include the representatives of all three branches of power, relevant public authorities and civil society as equal partners.***

**17<sup>TH</sup> ACN Plenary Meeting, September 2016**

***Measures taken to implement the recommendation***

On December 25, 2015, a regular meeting of the National Anti-Corruption Council of the Republic of Tajikistan took place. At the meeting of the Council, Minutes No.4c/4 were adopted. According to the Minutes, the Secretariat of the National Council was authorized, in coordination with the Agency for State Financial Control and Combating Corruption, to take steps to expand the composition of the National Council adding representatives of the civil society. As the next session of the Council is scheduled to take place in October 2016, there is currently one civil society candidate representing the Eurasia Foundation of Central Asia – Tajikistan. The search and selection of proper candidates for membership in the Council continues.

**Assessment of Progress - 17th Plenary**

**SIGNIFICANT PROGRESS/PROGRESS/LACK OF PROGRESS**

Text

## PILLAR 2. CRIMINALISATION OF CORRUPTION

### Recommendation 6

- *To conduct a detailed comparative evaluation of the Criminal Code, the Law “On combat against corruption” and other appropriate legislative acts of the Republic of Tajikistan and, based on the findings, to harmonize the domestic criminal anticorruption law with the administrative one.*
- *To incorporate in the criminal law the classification of “demand for”, “solicitation” or “request of” an undue advantage and “acceptance of offering/promise” of such an advantage as an individual corpus delicti .*
- *To incorporate in the criminal law the classification of intentional “offering” and “promise of” an undue advantage to the public official as an individual corpus delicti.*
- *To revise the existing wordings of bribe with a mandatory reference to their implying “any undue advantage”.*
- *To provide for liability for passive bribery and the one “in favor of third parties” upon consent or with the knowledge of the public official.*
- *To set effective and efficient liability of legal entities for corruption offences with proportionate sanctions, which will be balanced with the committed offence. Liability shall arise both for commission of an offence by certain officials and for improper control on the part of the managing bodies / persons of such legal entity, which makes commission of such offence possible.*
- *To consider a possibility for adoption of appropriate legislative norms for the sake of sanction of illicit enrichment.*
- *To criminalize “trading in influence”.*
- *To bring Article 279 of CC in line with the norms provided for in Article 21 of the UN Convention against Corruption.*
- *To clarify in the frame of CC the notion of «the person performing executive functions in the commercial or other organization».*
- *To delineate corpus delicti elements provided for in Articles 279 and 324 of CC to avoid their duplication.*
- *To introduce a uniform notion of “solicitation”.*

### 17<sup>TH</sup> ACN Plenary Meeting, September 2016

#### ***Measures taken to implement the recommendation***

According to item 4 of the Action Plan of the Anticorruption Strategy of the Republic of Tajikistan for 2013-2020, the Agency for State Financial Control and Combating Corruption of the Republic of Tajikistan has drafted a law amending and supplementing the Criminal Code of the Republic of Tajikistan to bring its provisions in line with the international standards introducing criminal liability for ‘soliciting a bribe’ and ‘giving consent to offering a bribe or accepting an offer or promise of a bribe’ in the case of passive bribery, and ‘offering’ and ‘promising’ a bribe in the case of active bribery. The draft law is under consideration of the relevant authorities of the Republic of Tajikistan.

#### **Assessment of Progress - 17th Plenary**

## SIGNIFICANT PROGRESS/PROGRESS/LACK OF PROGRESS

Text

### Recommendation 7

- *Introduce a single concept of “official” ensuring that this definition covers all categories of persons mentioned in the UN Convention against Corruption, including any person who performs a public function, including for a public agency or public enterprise, or provides a public service.*
- *Identify all categories of persons committing corruption offences due to the nature of their activity but not recognised as subjects of such offences by the Criminal Code either as public officials or as persons performing management functions in a commercial or other organisation, and eliminate the existing gaps.*
- *Supplement the concept of “foreign public official” with the note that this category of persons shall include persons who perform any public function, including for a public enterprise.*

### 17<sup>TH</sup> ACN Plenary Meeting, September 2016

#### ***Measures taken to implement the recommendation***

In response to this recommendation, the Agency has drafted a law to amend and supplement the Code of Administrative Offences of the Republic of Tajikistan as follows.

In Article 29, Part 2 shall read as follows –

‘In this Code, a public official means a person, whether appointed or elected, serving in a public capacity regularly, temporally, or by a special authority, i.e. an individual vested with regulatory powers by the laws of the Republic of Tajikistan with regard to persons not subordinated to them, as well as an individual who carries out organizational or administrative powers and holds an office or position in a government agency or local authority, whether gratis or for a remuneration, or a registered candidate for a public elective office, or a member of a public elective body, including government-owned companies and the companies where the government holds a controlling stake, or persons equal to them’.

The draft law is under consideration by the Government of the Republic of Tajikistan.

However, it should be noted that in accordance with Articles 22 and 23 of the Law of the Republic of Tajikistan On Legal Status of Foreigners, there are following restrictions for foreign nationals –

‘Foreign nationals in the Republic of Tajikistan shall not have the right to elect or be elected to the legislature, be appointed to the executive authorities, or participate in nationwide vote (referenda).

Foreign nationals shall not be subject to military recruitment in the Armed Forces of the Republic of Tajikistan’.

Analysis of laws of the Republic of Tajikistan has shown that such expressions as ‘official’ and ‘foreign public official’ correspond to the expression of ‘public official’ referred to in Article 2 of the United Nations Convention against Corruption.

Based on the abovementioned, it should be noted that such notions as ‘official’ and ‘foreign public official’ correspond to the notion ‘public official’ referred to in Article 2 of the United Nations Convention against Corruption by implication.

<p><b>Assessment of Progress - 17th Plenary</b></p> <p><b>SIGNIFICANT PROGRESS/PROGRESS/LACK OF PROGRESS</b></p> <p>Text</p>
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**Recommendation 8**

<p><i>Change the existing confiscation regime, to ensure that the instrumentalities and proceeds of all corruption offences are confiscated irrespective of the level of seriousness attached to the offence by the legislation of the Republic of Tajikistan; as well as, to allow confiscation of property or monetary equivalent of the value of proceeds of corruption offence.</i></p> <p><i>Consider introducing the statutory mechanism of confiscation of the mala fide third party owners of corruption proceeds.</i></p> <p><i>Introduce sustainable review mechanism to evaluate the effectiveness of the provisional measures (procedural coercion measures at the pre-trial stage) aimed at securing confiscation.</i></p>
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<p><b>17<sup>TH</sup> ACN Plenary Meeting, September 2016</b></p>
<p><b><i>Measures taken to implement the recommendation</i></b></p> <p>In accordance with the criminal laws of the Republic of Tajikistan, confiscation of property, as a form of punishment, means forced seizure and conversion of money, valuables, and other proceeds of crime and property, including corruption-related crimes, into state property following a court sentence. Any income derived from such property, except property and income that are subject to return to the rightful owner; money, valuables, and other proceeds of crime and property that have been partially or completely transformed or converted shall be subject to forfeiture.</p> <p>Where the proceeds of crime and property were transferred by a guilty person to another person (organization), and where such person knew or should have known that they were obtained in a criminal way, the proceeds of crime and property shall also be subject to confiscation. If confiscation of an item included in the proceeds of crime and property is impossible following a court ruling as it has been used use, sold, or for any other reason, the court shall rule to confiscate a sum of money of corresponding value.</p>
<p><b>Assessment of Progress - 17th Plenary</b></p> <p><b>SIGNIFICANT PROGRESS/PROGRESS/LACK OF PROGRESS</b></p> <p>Text</p>

### Recommendation 9

- *Depart from the practice of initiating criminal cases of bribery exclusively on the basis of applications. To facilitate detection and investigation of complex corruption offences:*
  - (i) *enhance the proactive capacity of the Agency for State Financial Control and the Fight against Corruption and representatives of other law enforcement and prosecution agencies, inter alia, by wider use of analytical methods;*
  - (ii) *make active use, in addition to intelligence information gathered by law enforcement agencies, of other investigation methods, including more thorough examination of mass media reports, information received from other jurisdictions, reports from tax inspectors, auditors and FIU, as well as complaints received through government websites and hotlines, embassy reports and information obtained through other complaints channels, as grounds for launching an investigation.*
- *Provide for the possibility of listening to telephone and other conversations in all cases of corruption offences.*
- *Use such special techniques as strategic infiltration and sting operations for detection and investigation of corruption offences.*

#### 17<sup>TH</sup> ACN Plenary Meeting, September 2016

##### ***Measures taken to implement the recommendation***

It should be noted that in 2015 and the 1st half of 2016, the employees of the Agency for State Control and Combating Corruption of the Republic of Tajikistan initiated more than 509 criminal proceedings on corruption-related offences based on the information provided by tax authorities, auditors, and financial control agencies.

##### **Assessment of Progress - 17th Plenary**

##### **SIGNIFICANT PROGRESS/PROGRESS/LACK OF PROGRESS**

Text

### Recommendation 10

- Continue the adoption of measures aimed at conducting joint and separate trainings for officers of all law enforcement bodies, including the prosecution agencies and the courts.*
- *Develop a training mechanism ensuring regular training events based on a formalised curriculum promptly reacting to all changes in the legislation.*
  - *Develop an evaluation mechanism of the special training.*
  - *Ensure implementation of an effective and transparent multilevel mechanism of competitive selection of personnel to the Agency for State Financial Control and the Fight against Corruption and the prosecution bodies on the basis of transparent procedures.*
  - *Ensure objective evaluation of contenders' qualifications and skills by an independent commission participating at least at the stage of preliminary selection, and establish a procedure of appeals against the selection results.*

## 17<sup>TH</sup> ACN Plenary Meeting, September 2016

### ***Measures taken to implement the recommendation***

Pursuant to paragraph 18 of the Action Plan for the Anticorruption Strategy, the Centre of Excellence has been established at the Institute of Public Administration under the President of the Republic of Tajikistan for employees of anti-corruption agencies and judges. Presently trainers are being selected from among the experts of these agencies.

It should be noted that the OSCE Office in Tajikistan conducts, on a regular basis, a series of training workshops for law enforcement officers and civil society with such topics as 'How to develop anticorruption strategies and action plans', 'Methods of monitoring implementation of anti-corruption strategies and action plans', 'Anti-corruption assessment of legal acts, 'Corruption risk assessment methods', etc.

In addition, the Centre of Excellence for Prosecutor's Office employees conducts workshops on the specifics of pre-trial investigation of criminal cases on misappropriation of public funds for prosecutors, investigators, and assistant prosecutors.

At the end of each month, following a joint plan of the Supreme Court and the High Economic Court of the Republic of Tajikistan, workshops are held for judges, trainee judges, and court staff in order to prevent corruption-related offenses in trial and take appropriate measures.

The Institute of Public Administration under the President of the Republic of Tajikistan has conducted 30 training courses for civil servants during this period.

Advanced training courses have been conducted on the topics of 'National policy in the fight against corruption in the Republic of Tajikistan' with participation of persons responsible for the prevention of central government corruption and 'Legal framework of civil service in the Republic of Tajikistan'.

The courses also studied such topics as 'Communication in the public service' and 'Ethics and integrity in the public service'.

On May 17, 2016, the Institute conducted a national scientific conference on 'Current problems in the fight against corruption in the Republic of Tajikistan' with participation of representatives of the Presidential Executive Office, the Agency for State Financial Control and Combating Corruption of the Republic of Tajikistan, the Agency for Civil Service under the President of the Republic of Tajikistan, central and local public authorities, and representatives of educational institutions. Following the conference, its participants suggested establishing the Centre for Considering Issues in Combating Corruption at the premises of the Research Institute with engagement of government officials.

In accordance with the action plan for retraining and advanced training for civil servants that follows the action plan of the Institute of Public Administration under the President of the Republic of Tajikistan for 2016, approved by the Presidential Executive Office, 16 courses were carried out in the first six months of 2016: 3 refresher courses, and 13 training courses, including 8 off-base courses. 692 civil servants (53.9% of the annual plan), out of which 224 females (32.34%) and 468 males (67.6%), attended these courses.

It should be noted that lecturers of high educational institutions and experts of the General Prosecutor's Office and Agency for State Financial Control and Combating Corruption of the Republic of Tajikistan carried out advanced training on the subjects of 'Corruption as a social phenomenon: its concept and outline', 'Anti-Corruption Legislation of the Republic of Tajikistan', 'Ways to combat corruption', 'Code of ethics for public servants'.

The Institute of Public Administration under the President of the Republic of Tajikistan incorporates a Research Institute of Public Administration and Civil Service. Theoretical and practical

research will be organized by this centre that will contribute to the development of public administration and civil service in the country.

Twice a year, the Agency for State Financial Control and Combating Corruption of the Republic of Tajikistan develops the training plan 'On conducting trainings and workshops with the staff of the Central Office' to be approved by the Agency's Director. The training plan is executed by both the Central Office and regional offices in Gorno-Badakhshan Autonomous Oblast, Khatlon Oblast, and Sogd Oblast. Theoretical and practical classes are held in accordance with these training plans once a week. The staff of the Agency takes tests and examinations according to the training plan at the end of each academic year.

In April 2016, the media announced 6 vacancies in the area of public finance control. More than 123 candidates applied for vacancies at the Agency.

It should be noted that to implement the principle of transparency and openness, the Agency had a three-stage competition.

The Agency sent 20 candidates to study counter-corruption law at the Academy of Financial Police of the Republic of Kazakhstan. Five graduates of 2015 and five graduates of 2016 out of 20 were appointed to corresponding positions at the Agency after graduating from the Academy of Financial Police of the Republic of Kazakhstan.

In May 2016, following a request of the Ministry of Internal Affairs of the Republic of Tajikistan, the Human Resource Department of the Agency prepared the documents of applicants for admission to the Academy of the Ministry of Interior of the Republic of Tajikistan. For the time being, 6 applicants are enrolled in the Academy.

Besides, 14 employees of the Agency for State Financial Control and Combating Corruption of the Republic of Tajikistan are trained at the MIA Academy of the Republic of Tajikistan to improve their professional skills.

In addition, the Agency for State Financial Control and Combating Corruption conducts performance evaluation of its employees in accordance with the Law of the Republic of Tajikistan On Civil Service every two years.

#### **Assessment of Progress - 17th Plenary**

##### **SIGNIFICANT PROGRESS/PROGRESS/LACK OF PROGRESS**

Text

### PILLAR 3. PREVENTION OF CORRUPTION

#### Recommendation 11

- *Continue developing and strengthening the preventive functions of the Agency for State Financial Control and the Fight against Corruption, ensuring that a more significant part of resources is allocated to this area of its work;*
- *Continue specialisation of staff members of the Agency for State Financial Control and the Fight against Corruption in prevention of corruption;*
- *Ensure effective coordination of activities of staff members (of structural units) of corruption prevention in regional offices of the Agency for State Financial Control and the Fight against Corruption;*
- *Ensure effective coordination of activities of staff members (of structural units) of corruption prevention of other state bodies.*

#### 17<sup>TH</sup> ACN Plenary Meeting, September 2016

##### ***Measures taken to implement the recommendation***

In accordance with the Decree of the President of the Republic of Tajikistan dated September 4, 2014, No. 275 On Amendments to Decree of the President of the Republic of Tajikistan dated January 10, 2007, No. 143 On the Agency for State Financial Control and Combating Corruption of the Republic of Tajikistan, the Directorate for Prevention of Corruption has been transformed into the Directorate General for Prevention of Corruption. Under this Decree, the strength of structural units in charge of corruption prevention has increased by 16 persons on the whole in the Republic.

To improve the level of proficiency, the Agency regularly sends its employees for training to the Institute of Public Administration under the President of the Republic of Tajikistan, Public Administration Academy under the President of the Republic of Kazakhstan, and the Academy of the Ministry of Internal Affairs of the Republic of Tajikistan.

Besides, the employees of the Central Office of the Agency and its structural units have theoretical and practical sessions according to the training plan once a week. The employees of the Agency take tests and examinations at the end of each academic year.

To coordinate the activities of counter-corruption agencies, the Agency for State Financial Control and Combating Corruption of the Republic of Tajikistan, in cooperation with the General Prosecutor's Office of the Republic of Tajikistan, Ministry of Internal Affairs of the Republic of Tajikistan, and State Committee for National Security of the Republic of Tajikistan carry out workshops, round tables, and meetings for public officials and the civil society. General information on these events can be found on the Agency's website [www.anticorruption.tj](http://www.anticorruption.tj).

##### **Assessment of Progress - 17th Plenary**

**SIGNIFICANT PROGRESS/PROGRESS/LACK OF PROGRESS**

Text

## Recommendation 12

### **Legal framework and prevention of conflict of interest**

*Establish legal regulations in the area of conflict of interests in civil service in a systematic manner. In addition, modify, in terms of extension of the volume of regulation, the following definitions stipulated in the Law: conflict of interests, public interest and personal interest.*

*Foresee in the law declaration of personal (private) interests by all public officials, including political civil servants, as well as specific procedures of exclusion of private interests from the decision-making process, and identify procedures for resolution of cases associated with possible conflicts of interests or accusations of involvement in a conflict of interests.*

### **Code of ethics**

*Include in the new Code of Ethics of Civil Servant fundamental principles of the public service, as well as detailed definitions of expected ethical conduct from civil servants. Improve mechanisms of management of civil servants' compliance with ethical standards. Develop and disseminate special codes of ethics for jobs exposed to greater corruption risks, such as police, tax, customs and border guard officers, prosecutors, etc.*

### **Recruitment in the public service**

*Introduce procedure which would ensure objectiveness and non-bias during the process of recruitment for the civil service.*

### **Practical training for civil servants, elected officials, judges and heads of public institutions**

*Improve the system of training in the area of ethics and conflict of interest prevention for civil servants. Ensure such training is systematic and permanent. Design a separate special training course on departmental ethics and regulation of conflict of interests, which should be made compulsory for policy makers, judges and heads of public institutions.*

### **Asset declarations**

*Make public the assets declarations, especially those filed by politicians and high-ranking public officials. Introduce a permanent monitoring mechanism over the submission of declarations, their completeness and accuracy of provided information. Introduce declaration of personal (private) interests. Extend the obligation of declaring income and assets to public officials' spouses and children. Improve the format of declarations taking into account the future transition to the electronic format of the whole process of declaring.*

17<sup>TH</sup> ACN Plenary Meeting, September 2016

### **Measures taken to implement the recommendation**

The Civil Service (Amended) Law of the Republic of Tajikistan, passed on March 11, 2011, No. 603, features such definitions as 'conflict of interest', 'government interest', and 'private interest'.

Article 28 of the said Law stipulates that 'if a civil servant's private interests get in the way of competent execution of office duties or conflict with government interests, or may lead to other conflicts of interest, he or she is to inform thereof a public official who has the power to appoint or remove him or her from office.

The statutory provisions governing conflicts of interest have been established by the Law of the Republic of Tajikistan On Fight Against Corruption that lists special requirements for persons running for public office as well as persons authorized to perform public functions (Article 7), fiscal control with regard to civil servants with intent to prevent conflicts of interest (Article 8), and barriers to appointment (election) to public office (Article 10).

Furthermore, to execute recommendations of the second round of OECD monitoring, the Civil Service (Amended) Law of the Republic of Tajikistan of July 26<sup>th</sup>, 2014, No.1128, was adopted to amend Article 32 of the said Law. According to these amendments, a civil servant will hereafter be held disciplinarily liable for disregard of the requirements of the Ethical Code for Civil Servants of the Republic of Tajikistan and the sectoral ethical codes for civil servants, for the occurrence of conflicts of interest while executing public office, or other actions leading to corruption but having no elements of administrative offenses or crimes.

To execute recommendation 12 of the third round of OECD monitoring and item 66 of the Action Plan for the Anticorruption Strategy of the Republic of Tajikistan for 2013-2020, laws have been drafted to amend the Civil Service Law and the Law on Combating Corruption Law of the Republic of Tajikistan and are submitted to ministries and government agencies for review.

These draft laws contain reviewed definitions of 'conflict of interest', 'government interest', 'private interest', procedures to declare income, property, fiscal obligations of candidates and public individuals, as well as their family members, and declarations of private interest of these individuals.

It has also been recommended that Article 8<sup>1</sup> of the Law of the Republic of Tajikistan On Combating Corruption be amended as follows –

'Article 8<sup>1</sup>. Declaration of Private Interests

1. Private interests of contenders (candidates) for public offices, governmental and equivalent positions when appointed (elected) to an office and such public office holders are to be declared annually by April 1<sup>st</sup> of the current year.

2. While declaring personal interests, the requirements stipulated in Sub-Articles 2 and 5 of Article 8 of the present Law must be followed.

3. The procedures, the form of declaration of personal interests of the persons referred to in Sub-Article 1 of the present Law shall be established by the President of the Republic of Tajikistan'.

The draft law amending the Civil Service Law of the Republic of Tajikistan stipulates that a civil servant's private interest shall be declared following the procedure required under the Law of the Republic of Tajikistan On Combating Corruption.

Conflict-of-interest management is also regulated through the Ethical Code of Civil Servants of the Republic of Tajikistan in the reviewed version approved by the Decree of the President of the Republic of Tajikistan of December 3, 2015, No.951. Pursuant to the Decree of the President of the Republic of Tajikistan, the control of implementation of the Decree, as well as coordination and control of the operations of the Commission on Ethics of Public Offices will remain with the Civil Service Agency under the President of the Republic of Tajikistan.

Human Resources Management in the Civil Service

The findings of the report of the third round of monitoring on competitive selection to enter public office have been taken into consideration by the Civil Service Agency.

To insure fairness and neutrality for evaluation of candidates, efficiency and transparency of the selection process, the Regulations on the procedures for selection to fill administrative vacancies in the government in the reviewed version have been approved by the Decree of the President of the Republic

of Tajikistan of March 10, 2016, No.647.

A competition between candidates for administrative vacancies in the government will be conducted to insure the equality of rights of nationals of the Republic of Tajikistan, administrative officers, the selection and placement of highly qualified and competent personnel in the government, and to ensure career opportunities for civil servants.

Alternatively, pursuant to the Regulations, pre-evaluation (written tests, testing) may be performed to assess the level of knowledge and expertise of the candidates. In such cases candidates will be individually or collectively assessed before being interviewed, and experts will be engaged to conduct pre-evaluation.

The head of a government agency has the right to refuse to comply with the decision of the Selection Committee to appoint a candidate to fill a vacancy exclusively by providing well-reasoned arguments (where laws were violated during the selection process). It should be noted that there were no cases in 2010 - 2016 where competition winners would not be appointed to the vacant positions.

#### **Assessment of Progress - 17th Plenary**

#### **SIGNIFICANT PROGRESS/PROGRESS/LACK OF PROGRESS**

Text

### **Recommendation 13**

- ***Take measures for guaranteeing protection of public servants against disciplinary reprisals or official harassments in cases when they report their suspicions of corruption or other unlawful actions in their organisations to law enforcement or prosecution authorities by adopting (special basic) rules for the protection of persons reporting possible cases of corruption or other unlawful actions and ensure that the public officials are aware of their duty to report suspicions of corruption or other unlawful actions and of these rules of protection of persons who report suspicions of corruption or other unlawful actions.***
- ***Fully decriminalise defamation.***

#### **17<sup>TH</sup> ACN Plenary Meeting, September 2016**

#### ***Measures taken to implement the recommendation***

Pursuant to Article 6 of Law of the Republic of Tajikistan On Combating Corruption, any person reporting a corruption related offense or contributing to the fight against corruption in another way shall fall under government protection. This protection is provided by the government agency designated to combat corruption. Article 672 of the Code of Administrative Offenses mandates that failure to provide information about corruption related violations to the law enforcement agencies shall be qualified as a violation of law and is punishable by a fine. Article 163 of the Criminal Code of the Republic of Tajikistan prohibits prosecution of a persons who provides information to the law enforcement agencies.

Article 34 of the Civil Service Law of the Republic of Tajikistan provides guarantees to civil servants, including a guarantee of protection for civil servants, their family members and close relatives against violence, threats, and other unlawful acts related to the execution of office duties.

Currently, the abovementioned draft law amending the Civil Service Law has been developed to implement this statutory provision.

As legislation of the Republic of Tajikistan contains a number of organizational, legal, and social

measures to ensure protection of individuals contributing to the prevention and exposure of crimes, including corruption-related ones, their protection from threats and violence, it has been proposed to supplement the Law with Article 29<sup>1</sup> that reads as follows –

‘Any use of force, threats, and other unlawful acts against a civil servant, his or her family members and close relatives related to his/her performance of office duties and reporting corruption-related offenses and crimes shall be prohibited.

Comprehensive organizational, legal, economic, and social measures established by legislation of the Republic of Tajikistan to ensure protection for the persons contributing to the prevention and exposure of crimes, including corruption-related offenses and crimes, will be applied to the civil servants, their family members and close relatives’.

#### **Assessment of Progress - 17th Plenary**

#### **SIGNIFICANT PROGRESS/PROGRESS/LACK OF PROGRESS**

Text

#### **Recommendation 14**

- ***Introduce and ensure effective operation of the system of anticorruption screening of legal acts and their drafts, clearly preventing duplication of functions of bodies entrusted to conduct such screening.***
- ***Develop and approve the methodology(-ies) of anticorruption screening of legal acts and their drafts for all types of anticorruption screening stipulated by the legislation of Tajikistan, taking into consideration differences between internal and external anti-corruption screening.***
- ***In order that the anticorruption screening provided for in the legislation of Tajikistan is efficient, ensure the necessary training for specialists and their regular capacity-building.***

#### **17<sup>TH</sup> ACN Plenary Meeting, September 2016**

#### ***Measures taken to implement the recommendation***

The Department for anti-corruption assessment of laws and draft legal acts of the Chief Directorate for Prevention of Corruption of the Agency for Efficient Anti-Corruption Assessment established by the legislation of Tajikistan provides regular trainings to its experts. Once a week trainings Legislation of the Republic of Tajikistan take place at the Chief Directorate, while several times a year the employees are trained at the Institute for Advanced Training. In cooperation of the OSCE Office in Tajikistan, the officials of the Directorate conducted training on the procedures for anti-corruption assessment of laws and draft laws at the said Office, once in 2015 and twice in 2016. On June 3<sup>rd</sup>, 2016, the Agency conducted a national conference “Procedures for anticorruption assessment of laws and draft legal acts” with over 60 representatives of government agencies and the civil society attending it.

As regards the implementation of anti-corruption assessment of laws and draft legal acts, the following acts have been adopted and took effect –

1. Law of the Republic of Tajikistan On Anticorruption Assessment of Laws and Draft Legal Acts.

The Law establishes the legal and organizational framework for anticorruption assessment of laws

and draft legal acts to identify corruption-related factors in them and to take steps to eliminate these factors as part of a corruption prevention package in all walks of life of the society.

Pursuant to Sub-Article 1 of Article 8 of the Law, the government anticorruption assessment of laws and draft legal acts shall be carried out by the authority in charge of state financial control and combating corruption of the Republic of Tajikistan; while the government anticorruption assessment of binding regulations of the ministries, government committees, other government agencies, and local self-governments shall be conducted by the Ministry of Justice of the Republic of Tajikistan, whereas in-house anticorruption assessment of legal acts shall be carried out by the lawmakers. The anti-corruption assessment is to be conducted by the experts who have not been involved in drafting the legal acts.

Pursuant to Sub-Article 2 of the present Article, the authority in charge of state financial control and combating corruption of the Republic of Tajikistan can directly conduct anti-corruption assessment of binding regulations of the ministries, government committees, other government agencies, local authorities, and local self-governments.

Sub-Article 3 of this Article covers the development of the procedures for anti-corruption assessment of laws and draft legal acts, regulations and draft regulations of the ministries, government committees, other government agencies, local authorities, local governments, and intradepartmental anti-corruption assessment of draft regulations.

2. The Resolution of the Government of the Republic of Tajikistan of June 3, 2014, No.355 On procedures for anti-corruption assessment of laws and draft legal acts, regulations and draft regulations of the ministries, government committees, other government agencies, local authorities, local governments, and intradepartmental anti-corruption assessment of draft regulations.

The said procedures have been based on Articles 3 and 8 of the Law of the Republic of Tajikistan On Anti-Corruption Assessment of Laws and Draft Legal Acts and lays out the procedures for anti-corruption assessment of laws and draft legal acts, as well as intradepartmental anti-corruption assessment of draft regulations.

#### **Assessment of Progress - 17th Plenary**

#### **SIGNIFICANT PROGRESS/PROGRESS/LACK OF PROGRESS**

Text

#### **Recommendation 15**

- ***Continue the development of the Audit Chamber of the Republic of Tajikistan staffing it with highly qualified personnel with a high level of moral qualities and integrity.***
- ***Reconsider the functions of the Agency for State Financial Control and the Fight against Corruption and the Audit Chamber in connection with the formation and development of the new external audit institution in order to avoid duplication in the work of these two institutions.***
- ***Envisage joint and separate trainings for officers of the Audit Chamber, the Agency for State Financial Control and the Fight against Corruption, internal audit departments of other institutions and law enforcement bodies on matters of detection of facts of fraud and corruption, transfer of such information to law enforcement bodies, analysis of causes and factors conducive to development of corruption and fraud in the sphere of public finances***

*management, and methods of their elimination.*

- *Ensure practical implementation of the Audit Chamber's obligations to prepare, present and publish independent annual reports, except information protected by law, and ensure maximally broad distribution and discussion of the published reports.*

## 17<sup>TH</sup> ACN Plenary Meeting, September 2016

### ***Measures taken to implement the recommendation***

In pursuance of this recommendation, the Chamber of Accounts of the Republic of Tajikistan, with direct support of the country's leadership including the President of the Republic, continues its efforts to enhance its structure, increase the nominal staffing level and recruit professionals that have the experience, integrity and qualifications required in view of the implementation of independent external audit of public budgeting and extrabudgetary spending.

The Head of State has placed a special focus on the staffing of the Chamber of Accounts. Most recently, on August 23, 2015, President of the Republic of Tajikistan Honorary Emomali Rahmon issued an order to expand the staff of the Chamber of Accounts to 110 and efforts were made to recruit new professionals.

To reinforce the efforts to strengthen the public audit expertise of the Chamber of Accounts with professionals having a high level of qualifications, ethical standards, integrity and patriotism and to further the efforts to improve the performance of the Chamber of Accounts of the Republic of Tajikistan, on July 18, 2016, the Chamber's executive board, upon the President's approval, held an unscheduled performance assessment of 42 audit experts and employees. To ensure objective and unbiased assessment of the staff's professional qualifications and expertise, the Chamber's executive board additionally commissioned the services of members of the Civil Service Agency under the President of the Republic of Tajikistan and the HR advisor assistant to the President of the Republic of Tajikistan. Based on the findings of the assessment, seven of the 42 employees were demoted and two of them were recommended for dismissal due to their professional inaptitude.

To ensure that experts with a high level of qualifications are recruited, the salary levels must be consistent with the specific job requirements. Pursuant to the Order no. 259 of the Government of the Republic of Tajikistan of June 21, 2016, and in pursuance of the Decree of the President of the Republic of Tajikistan no. 697 of June 06, 2016, *On Measures to Increase the Level of Social Protection, Effective Official Salaries of Civil Servants and Employees of Public Institutions and Organizations, Retirement Payments, and Scholarship Allowances*, official salaries of the Chamber of Accounts employees were increased by 15 percent starting July 01, 2016.

Regarding the overlapping functions of the Public Audit and Anti-Corruption Agency of the Republic of Tajikistan and the Chamber of Accounts of the Republic of Tajikistan, it should be noted that the agencies closely cooperate with each other.

The Chamber of Accounts is a new institution with expanded functions and objectives with regards to control of public spending. The functions and powers of the Chamber of Accounts employees are clearly established by the Law of the Republic of Tajikistan *On the Chamber of Accounts*. Pursuant to Article 1.1 of the Law, the Chamber of Accounts of the Republic of Tajikistan is the supreme audit agency of the Republic of Tajikistan that is responsible for independent external audit of budget execution and making recommendations for improvement. Pursuant to Article 1.3 of the Law, the Chamber of Accounts can assess policy implementation and present the findings of its assessment.

To enhance the Law of the Republic of Tajikistan *On the Chamber of Accounts of the Republic of Tajikistan* and several other laws, the Chamber of Accounts of the Republic of Tajikistan has developed a number of amendments and submitted them to the interagency anti-corruption and audit commission

of the Ministry of Justice of the Republic of Tajikistan for review and subsequent submission to the President of the Republic of Tajikistan.

Additionally, to remove overlaps of functions between the two agencies, the Chamber of Accounts of the Republic of Tajikistan has developed and enacted the *Regulations and Instructions for the Chamber of Accounts Units*. Also, several manuals on audits and standards and instructions on external public financial control have been translated from Russian to Tajik. To that end, the working commission continues its efforts to develop relevant documents of the Chamber of Accounts of the Republic of Tajikistan.

The Chamber of Accounts of the Republic of Tajikistan further continues its efforts to improve the professional qualifications level of its staff. Particularly, according to the training schedule approved by the Chairman of the Chamber of Accounts of the Republic of Tajikistan on January 5, 2016, a series of professional trainings for the Chamber's employees has been launched. The trainings are delivered by chief auditors and other experienced employees of the Chamber of Accounts. The training subjects have been selected following the practical needs and requests from the Chamber of Accounts employees.

A total of six workshops have taken place according to the schedule. The training subjects included the following: procedures for planning and conduct of audits of public sector organizations (January 05, 2016); specific procedures for audits of investments and government loans (January 08, 2016); training on the instructions on audit of the Chamber of Accounts of the Republic of Tajikistan (January 12, 2016); auditing administration of budget allocations by local public sector institutions (January 15, 2016); interpretations of the Tax Code of the Republic of Tajikistan (January 19, 2016); and public procurement of goods, works and services. The workshops were held at the conference hall and attended by all employees of the Chamber of Accounts.

An interactive learning model was used during the trainings allowing all employees of the Chamber of Accounts to interact during the trainings and offer solutions based on their analysis of case studies. Advanced professional training is a way to improve theoretical knowledge and practical skills of the employees. This series of trainings aims to consistently improve their professional knowledge, skills and qualifications. The main goal of the trainings is to make the transition from government financial control to public auditing.

The international best practice exchange within the framework of the International Organization of Supreme Audit Institutions is an effective way to assist a supreme audit institution in the pursuit of its objectives.

To further cooperation between supreme audit institutions of ECOSAI member states, a training seminar on environmental auditing standards was held from May 9 to 19 of this year in Tehran, the Islamic Republic of Iran. During the seminar, participants had an opportunity to discuss and share their best practices of environmental auditing.

In pursuance of paragraph 3 of the OECD Recommendation no. 15, on August 02, 2016, the chief executives of the Chamber of Accounts in partnership with the Public Audit and Anti-Corruption Agency of the Republic of Tajikistan held a joint seminar on *Control over Proper and Effective Use of Public Funds by Public Companies and Organizations* at the premises of the National Public Library of Tajikistan.

The event drew 38 participants all of whom took an active part in the discussion of the detection of fraud and corruption and reporting to law-enforcement agencies as well as the analysis of the causes and contributing factors of corruption and fraudulent activities in the public finance management sector and the methods to detect, prevent and eradicate them.

Notably, mass media and central television channels of the Republic of Tajikistan covered the seminar and its outcomes.

Pursuant to the Law of the Republic of Tajikistan *On the Chamber of Accounts of the Republic of Tajikistan*, the Chamber of Accounts may use its IT resources, arrange semi-annual press conferences, and publish articles and interviews to promote its progress and accomplishments. The Chamber of

Accounts publishes its own academic and information newsletter, *The Chamber of Accounts Journal*, and runs its own website (www.sai.tj) available in Tajik, Russian and English and updated on a daily basis.

**Pursuant to provisions of law**, an expert analysis has been launched based on the findings of which, the Chamber of Accounts of the Republic of Tajikistan prepared reports on the execution of the 2015 State Budget of the Republic of Tajikistan and the draft law of the Republic of Tajikistan *On the 2016 State Budget of the Republic of Tajikistan*. The reports were submitted for review to the President of the Republic of Tajikistan and the Majlisi Namoyandagon of the Majlisi Oli of the Republic of Tajikistan. During the period under review, the Chamber of Accounts audited 438 ministries and departments, investment project management centers, state-owned enterprises, and other public institutions.

It is expected that in the long term, the Chamber will expand its communication with the media and the general public to disseminate information and promote thorough discussion of performance reports and specific issues related to implementation of fiscal policies, public finance management and anti-corruption efforts by producing special programs on public radio and television and high-profile publications in parliament- and government-affiliated print media.

Also, over the course of 2015 and the first six months of 2016, the Public Audit and Anti-Corruption Agency of the Republic of Tajikistan has conducted 1,544 scheduled inspections and reviews. The findings of 1,122 of those inspections have been submitted to the law-enforcement agencies for further review and legal assessment.

#### Assessment of Progress - 17th Plenary

##### SIGNIFICANT PROGRESS/PROGRESS/LACK OF PROGRESS

Text

#### Recommendation 16

- ***To revise the Law “On the Public Procurement of Goods, Works and Services” and other related legal acts of the Republic of Tajikistan in order to ensure compliance of the legislative base with the international requirements and standards.***
- ***To ensure that all purchases of goods, works and services, which are made fully or partly at the expense of the public funds of the Republic by all state power bodies or other legal entities, which are fully or partly financed with the public funds of the Republic, are made in accordance with the requirements of the Law “On the Public Procurement of Goods, Works and Services”.***
- ***To ensure effective functioning of the system of accountability, control and dissemination of information on public procurement as envisaged in the Law “On the Public Procurement of Goods, Works and Services”.***
- ***To regulate public procurements falling outside of the scope of regulation of the Law “On the Public Procurement of Goods, Works and Services” (public procurements securing national defence, national security, state secrets, etc.) and to establish control over funds spent on such purchases without prejudice to the state secrecy and other conditions typical for such purchases.***

- ***To separate functions of supervision over the public procurement system and carrying out of public procurement on behalf of purchasing organizations not having the status of “qualified purchasing organization” delegating them to other bodies and allocating necessary resources for effective performance of such functions.***

## 17<sup>TH</sup> ACN Plenary Meeting, September 2016

### ***Measures taken to implement the recommendation***

The drafting process for the updated law of the Republic of Tajikistan *On Public Procurement of Goods, Works and Services* is nearing completion. International advisor Mr. Olivier Moreau was commissioned by the European Bank for Reconstruction and Development to provide technical assistance and visited Tajikistan from 20 to 25 June, 2016. During the finalization phase, the latest comments and recommendations from the UNCITRAL Secretariat were also discussed. The consensus was reached on many issues which will be reflected in the final revision of the draft law.

The Public Procurement Agency plans to present the draft Law for review to ministries and departments in July of this year. The revised draft Law incorporating any amendments that may be suggested by ministries and departments is expected to be subsequently submitted to the Cabinet of the Republic of Tajikistan in October of this year.

Since the draft Law was modeled on the 2011 UNCITRAL model law on public procurement, it meets all applicable international requirements and standards. The technical assistance provided jointly by the EBRD and the UNCITRAL Secretariat advisors also involved an extensive comparative analysis of the draft Law for compliance with the WTO Agreement on Government Procurement and bringing it in line with the Agreement.

During the official speech at the plenary meeting of the parties to the WTO Agreement on Government Procurement that was held in Geneva on July 21 of this year, the head of the delegation of the Republic of Tajikistan made a request that, to be able to meet the deadlines for passing the draft Law, any comments on the draft Law by other parties to the Agreement be submitted before the end of July 2016. The request was also placed in the minutes of the meeting. If no comments are submitted before the deadline, the Cabinet of the Republic of Tajikistan will proceed with the approval and adoption of the draft Law.

Before the plenary meeting, only Canada and Singapore had requested explanations regarding Article 13 of the draft Law and the provisions on framework agreements which were duly provided on June 16, 2016.

To summarize, since the beginning of the third round, serious steps have been taken to engage more public companies and organizations in public procurement processes. These include, particularly, the State Unitary Enterprise *Tajik Aluminum Company* and the Public Joint Stock Company *Barqi Tojik* which were awarded the ‘qualified procuring organization’ status, the Joint Stock Company *Agroinvestbank*, and others. All confirmation documents on those companies have been duly provided.

The information about public procurement as specified by the Law *On Public Procurement of Goods, Works and Services* is published on the public procurement portal at [www.zakupki.gov.tj](http://www.zakupki.gov.tj)

Particularly, the information about pending procurement requests is published under the *Request Registry* section, the information about e-procurement is published on the portal’s main page, the information about awarded procurement contracts is published under the *Contract Registry* section, and any applicable regulations are published under the *Legislation* section.

The information published on the web portal includes all the data required by the Law on public procurement. In addition, the information about electronic requests for quotation is published on the

main page of the web portal and the details of the winning bids are made accessible without restrictions or authorization.

In addition, starting April 2016, the Agency has also been publishing tender notices on the website of the *Hovar* news agency. *Invitations to bid are also published by print media.*

Significant progress has been made to improve transparency and control by implementing the measures provided by paragraph 27 of the Resolution of the Government of the Republic of Tajikistan no. 8 of January 25, 2016, 'On the Outcomes of Social and Economic Activities of 2015 and Objectives for 2016.' Pursuant to this paragraph of the Resolution, qualified procuring organizations are expected to be more involved in the Public Procurement Portal and more goods are expected to be procured through e-procurement. In pursuance of this paragraph of the Resolution, and pursuant to the Order of First Deputy Prime Minister of the Republic of Tajikistan Davlatoli Said of April 22, 2016, no. 27201 (22-8), and the Order of the Head of the Public Procurement Agency of May 31, no. 56, the scope of goods procured through e-procurement was significantly expanded.

By putting these measures into practice, procurement transactions have become even more transparent. They are accountable to the Public Procurement Agency and overseen by the competent agency. Another accomplishment is a marked increase in the number of registered e-procurement suppliers. As of this moment, there are 268 of them marking a more than threefold increase from 85 companies as of late 2015.

Also of note is the fact that since the beginning of the current year, the Agency's regional offices have been permanently connected to the electronic procurement data system as opposed to irregular connection they had previously. This has helped to improve transparency and monitoring of procurement transactions at the local level on a day-to-day basis.

According to Article 2.1 of the draft Law, 'Scope of the Law,' the Law applies to all procurement transactions. Any transactions that, pursuant to the existing law, are exempt from the Law will be regulated by special provisions of the new Law, specifically Article 15, *Handling of Classified Information*, Article 40.1.r, *Competitive Negotiations*, and Article 41.1.κ, *Direct Procurement*.

The draft Law also provides for establishment of an independent complaint investigation council to prevent any conflict of interest. The Council's operating principles are laid out in Article 50 of the draft Law. The Council will be accountable to the Government of the Republic of Tajikistan. It will consist of a chairperson and two council members and will be publicly funded.

Moreover, since the last report, the World Bank's Capacity Building for Procurement grant has been directed to train approximately 400 persons and to develop and implement an electronic test examination system for graduates of the Public Administration Institute. A total of 13 persons had applied for a test examination which they were allowed to take in March of this year.

#### **Assessment of Progress – 17<sup>th</sup> Plenary**

#### **SIGNIFICANT PROGRESS/PROGRESS/LACK OF PROGRESS**

Text

#### **Recommendation 17**

- ***To revise the existing legislation on access to information in order to limit the volume of information, which is not subject to disclosure and powers of heads of the state authorities and organizations to restrict access to information.***

- *To delegate the function of monitoring of observance of the requirements of the Law “On the Right to Access to Information” (consideration of claims in connection with violation of the right to access to information and performance of relevant investigations, prescriptions on elimination of barriers for access to information, preparation of reports on observance of the requirements of the Law “On the Right to Access to Information”, recommendations, etc.) to the office of the Human Rights Commissioner or other state body and to grant necessary rights and resources to such body.*
- *To take measures for elimination of problems related to access to information in the judicial system.*
- *To confirm uniform requirements for the information, which has to be published by the state authorities, and web-sites of the state authorities and organizations specifying information which has to be presented on these web-sites and to ensure observance of these requirements.*
- *To ensure free unlimited free-of-charge access to all legal acts, including draft legal acts, which have to be updated on a timely basis.*

#### 17<sup>TH</sup> ACN Plenary Meeting, September 2016

##### ***Measures taken to implement the recommendation***

In pursuance of the recommendation from the OECD Anti-Corruption Network for Eastern Europe and Central Asia to the Republic of Tajikistan under the Istanbul Action Plan to establish a special independent office for the processing of petitions pursuant to the law on access to information, the Law of the Republic of Tajikistan no. 1101 of July 26, 2014, introduced amendments to Article 11 of the Law of the Republic of Tajikistan *On the Human Rights Commissioner of the Republic of Tajikistan*.

Pursuant to the newly introduced amendments, the main functions of the Human Rights Commissioner now also include assisting in gaining access to information and review and investigation of public petitions for access to information.

According to Article 2 of the Law of the Republic of Tajikistan *On the Right of Access to Information*, the right of access to information means the right of every individual to seek and obtain information from government agencies and organizations, other agencies and organizations authorized by the government to discharge the functions of the state, local self-government agencies, and their officials that legitimately hold the information concerned.

The Ministry of Justice of the Republic of Tajikistan publishes a monthly magazine ‘*Universal State Register of Regulations of the Republic of Tajikistan*’ which, according to Article 53 of the Law of the Republic of Tajikistan *On Regulations*, is an official publication.

The magazine features four sections containing international legal instruments recognized by Tajikistan, constitutional laws of the Republic of Tajikistan, codes and laws of the Republic of Tajikistan, resolutions of the Majlisi Milli and the Majlisi Namoyandagon of the Majlisi Oli of the Republic of Tajikistan, presidential decrees of the Republic of Tajikistan, orders of the Government of the Republic of Tajikistan, and binding regulations of government agencies, local government agencies and village self-government agencies that have been officially registered with the Ministry of Justice of the Republic of Tajikistan.

Pursuant to the Order of the Ministry of Justice of the Republic of Tajikistan of January 14, 2015, no. 9, 210 free copies of the magazine are distributed between ministries, government committees, and local government agencies.

Also, pursuant to the Order of the Government of the Republic of Tajikistan of August 31, 2012, no.

453, *The List of Recipients of Free Copies of Documents*, three copies of the magazine are provided to the National Library of Tajikistan where they are made available to the general public.

Pursuant to the Presidential Decree of the Republic of Tajikistan of March 27, 2009, no. 637, *On the Establishment of the National Legislation Center under the President of the Republic of Tajikistan*, the National Legislation Center under the President of the Republic of Tajikistan has been established with the intention to improve the existing legislation and make the law-making processes more efficient.

#### **Assessment of Progress – 17<sup>th</sup> Plenary**

#### **SIGNIFICANT PROGRESS/PROGRESS/LACK OF PROGRESS**

Text

### **Recommendation 18**

- *To improve legislation regulating financing of political parties and political (election) campaigns in accordance with the relevant international standards, including by setting the requirements and limitations for donations as well as the procedure for making donations in order to ensure transparency of donations and their sources, to prevent conflicts of interests and illegal influence on political parties and political officials, to limit financing of political parties and political (election) campaigns by legal entities and to ensure effective accounting and control over such financing, to specify the requirements for accounting and substantiating documents of political parties and political (election) campaigns, etc.*
- *To ensure effective control over financing of political parties and political (election) campaigns and public availability of information on financing of political parties and political (election) campaigns as well as the results of control over the respective financing.*
- *To familiarize the Parliament's deputies and public with the Rules of Ethics and Conduct of the Parliament's Deputies and to ensure that these Rules are implemented in practice. To adopt a legal act regulating the rules of ethics and conduct of the self-government deputies and to ensure that the deputies and public are familiarized with the provisions of that document as well as to ensure effective implementation of that document.*
- *To ensure that the Code of Ethics of Public Servants is effectively implemented with respect to politically appointed officials and politically appointed officials and members of the Government.*
- *To develop legislation for prevention of and control over conflicts of interests of political official and to introduce practical mechanisms for prevention of conflicts of interests and settlement of ethics dilemma by political officials.*

#### **17<sup>TH</sup> ACN Plenary Meeting, September 2016**

#### ***Measures taken to implement the recommendation***

It is worth noting that the Constitution of the Republic of Tajikistan was recently amended by the nationwide referendum of May 22, 2016. According to Article 8 of the Constitution of the Republic of Tajikistan, public life in Tajikistan is governed by the principles of political and ideological pluralism. The

state may not officially endorse any ideology of any political party or civic or religious organization, movement or group. Civic organizations and political parties are established and operate in compliance with the Constitution and other laws. Religious organizations are separated from the state and may not interfere with the affairs of the state. Establishment and activities of any civic organizations or political parties promoting racial, ethnic, social or religious hatred or inciting violent overthrow of the constitutional order and setting up of paramilitary groups are prohibited. Any activities of foreign political parties, establishment of ethnic or religious political parties as well as sponsorship of political parties by foreign states, organizations, legal entities or individuals are also prohibited in Tajikistan.

To fulfill Tajikistan's obligations and implement the recommendations on legislative regulation of financial operations of political parties as well as in pursuance of paragraph 19 of the Order of the Government of the Republic of Tajikistan of September 2, 2010, no. 432, a number of amendments were developed to the Law of the Republic of Tajikistan *On Political Parties in the Republic of Tajikistan* originally adopted in 2015.

The amendments introduced to the Law of the Republic of Tajikistan *On Political Parties in the Republic of Tajikistan* to regulate political party funding in the Republic of Tajikistan include the following:

Article 13:

'Financial aid is granted to a political party by transferring money to the political party's bank account. If an individual or a legal entity opts to deposit cash, the money may only be transferred to the political party's bank account upon completion of all required official documents under the procedure established by the legislation of the Republic of Tajikistan.

A payment document or money transfer document must indicate the information about the legal entity, taxpayer's identification number, name and bank account details of the legal entity.

Citizens of the Republic of Tajikistan may grant their own money to political parties by transferring it to either the political party's bank account or the accounting departments of the political party's district, city, regional or central offices. When making a money transfer, a citizen of the Republic of Tajikistan is required to provide his/her ID and tax statement covering the latest three months. The payment document must indicate the full name and taxpayer identification number.

Financial statements of political parties, data on sources and use of funds by political parties and compliance of political parties with the rules of certification of property assets are audited by a competent government agency.

The findings of audits of financial statements of political parties are reported to the political parties concerned and are published in mass media on an annual basis as well as additionally a month prior to the start of every election campaign.'

Due to the increasing role of political parties in Tajikistan's political system and their growing influence on social relations, the scope of applicable laws has expanded significantly. In addition to the Constitution of the Republic of Tajikistan and the Law of the Republic of Tajikistan *On Political Parties in the Republic of Tajikistan*, activities of political parties are regulated by many other laws.

Particularly, Article 9 of the Constitutional Law of the Republic of Tajikistan *On the Majlisi Oli Elections* establishes top limits on personal earnings/savings of parliamentary candidates, election campaign funds of political parties nominating parliamentary candidates in single-member constituencies, election campaign funds of political parties nominating parliamentary candidates in the republican multi-member constituency, and grant aid received from individuals and legal entities. It also establishes top limits on election campaign funds of parliamentary candidates and political parties and restrictions on certain sources of political party funding.

The distribution of financial aid to political parties requires a properly regulated and transparent financial system. Another crucial factor in legal regulation of the status of political parties is the designation of agencies responsible for public control over their activities. The scope of competent

government agencies and their functions in terms of control over activities of political parties is determined by their position within the political system and, in turn, makes it possible for political parties to pursue their statutory objectives and thus perform their social and political role in an orderly manner.

Besides, the necessity to identify the sources of funding of political parties is determined by and linked to the national security requirements.

The Law of the Republic of Tajikistan *On Civic Associations* has also been amended.

Article 27.

‘Voluntary and charitable donations, grants and property received by civic associations from foreign states, foreign legal entities, legal entities established in partnership with foreign entities, international organizations and international civic movements, as well as through other physical persons or legal entities are subject to registration by competent registration agencies with the Register of Humanitarian Aid to Civic Associations of the Republic of Tajikistan. The procedures for maintaining the registers are established by the Cabinet of the Republic of Tajikistan. Before the implementation of projects funded by the entities referred to herein, civic associations are required to duly report to competent registration agencies. Standard reporting forms are established by the Ministry of Justice of the Republic of Tajikistan.’

In view of the above, the Minister of Justice of the Republic of Tajikistan issued the Order of June 28, 2016, no. 821, *Reporting form for receipts of voluntary contributions, donations, grants or property from foreign states, foreign legal entities, legal entities established in partnership with foreign entities, international organizations or international civic movements.*

Article 34.

‘The auditing procedure for statutory activities of civic associations is established by the Ministry of Justice of the Republic of Tajikistan.’

In pursuance of this provision, the Minister of Justice of the Republic of Tajikistan issued the Order of December 10, 2015, no. 802, enacting the *Auditing Procedure for Statutory Activities of Civic Associations of the Republic of Tajikistan.*

Pursuant to the Law of the Republic of Tajikistan *On Civic Associations*, civic associations must comply with the Constitution and the laws of the Republic of Tajikistan as well as the statute of the civic association. The Prosecutor General of the Republic of Tajikistan and subordinate prosecutors oversee consistent compliance of civic organizations with the law. A competent registration agency, i.e. the Ministry of Justice of the Republic of Tajikistan and its local offices in the Gorno-Badakhshan Autonomous Region and other provinces, oversees the activities of civic associations.

The Law of the Republic of Tajikistan *On Civic Associations* provides for auditing of statutory activities of civic associations under the procedures established by orders approved by the Ministry of Justice of the Republic of Tajikistan.

The Government of the Republic of Tajikistan also issued the Order of March 31, 2016, no. 149, enacting *The Procedures for Establishing and Maintaining the Register of Humanitarian Aid to Civic Associations of the Republic of Tajikistan.*

#### **Assessment of Progress - 17th Plenary**

#### **SIGNIFICANT PROGRESS/PROGRESS/LACK OF PROGRESS**

Text

## Recommendation 19

- *To specify the criteria of selection and dismissal of judges.*
- *To publish information on available vacancies of judges of all levels as well as on date and terms of competition on the official web-site of the Council of Justice.*
- *To provide for automatic prolongation of the labour agreement of judges for another 10-year term if the judges have been performing their obligations in good faith.*
- *To provide for obligatory publication of the decisions of the Supreme Court and the Higher Economic Court.*
- *To arrange for a mechanism of consideration of cases in courts observing the principle of their random distribution between the judges.*
- *To continue improving the existing ethical norms for the judicial bodies in order to ensure their practical implementation.*
- *To reform the Council of Justice so that it would not depend on any other branches of power and would be the guarantor of independence of the judicial power.*
- *To envisage necessary guarantees ensuring independence of advocates in the new Law on Advocacy.*

### 17th plenary, 14-16 September 2016:

#### ***Measures taken to implement the recommendation***

As to the recommendations to clarify the criteria for the selection and dismissal of judges, the publication of information about available vacancies for the post of judge at all levels, as well as the date and conditions of the competition on the official website of the Supreme Court of the Republic of Tajikistan in the Internet, and the automatic renewal of the employment contract of judges for the next ten year period, if judges performed their obligations in good faith, it should be noted that the legislation of the Republic of Tajikistan establishes the procedures for the election, appointment, and the requirements imposed on the judge.

Thus, in accordance with Article 85 of the Constitution of the Republic of Tajikistan, lawyers not younger than 30 who have worked as judges for at least five years can be elected and appointed judges of the Supreme Court, High Economic Court, the Court of Gorno-Badakhshan Autonomous Region, the regional courts and the court of Dushanbe. As to the judges of municipal and district courts, the military court, the Economic Court of Gorno-Badakhshan Autonomous Region, the regions and Dushanbe city, they are appointed from among the individuals not younger than 25 with at least three years of professional experience.

According to Article 86 of the Constitution of the Republic of Tajikistan, judges of the military court, judges of the Court of Gorno-Badakhshan Autonomous Region, regional courts, courts of Dushanbe city, cities and districts, judges of the Economic Court of Gorno-Badakhshan Autonomous Region, the regions and Dushanbe city are appointed and dismissed by the President upon the recommendation of the Supreme Court.

The Constitution of the Republic of Tajikistan also provides that the organization and functioning of the courts shall be determined by the Constitutional Law.

The Program of judicial reform for 2011-2013 provided for the adoption of the revised

Constitutional Law of the Republic of Tajikistan “On the Courts of the Republic of Tajikistan”, which was adopted on July 26, 2014.

According to Article 12 of the Constitutional Law (Requirements for Candidates for the Post of Judge), judges must comply with the Constitution of the Republic of Tajikistan and other regulatory instruments of the Republic of Tajikistan, use their knowledge and experience to perform the tasks assigned to them, fulfill their obligations in a professional manner and be worthy of the title of judge. In administering justice, as well as in off-duty relationship, judges should avoid anything that might detract the authority of the judicial power, honor and dignity of a judge, or call into question his / her impartiality, fairness and objectivity. A judge is obliged to observe the restrictions provided for in the Law of the Republic of Tajikistan “On Fight Against Corruption”. A judge may not hold any other position, be a delegate of representative bodies, member of political parties or organizations or support them financially, as well as pursue any business, except for the research, creative and teaching activities.

Article 15 of the Constitutional Law (the Term of Office of Judges) states that judges are elected or appointed for a term of ten years. In the election or appointment of judges during their term from one court to another, a ten-year term of office shall run from the date of the new election or appointment.

Article 16 (Election and Appointment of Judges) provides that judges of the Supreme Court and the Supreme Economic Court of the Republic of Tajikistan shall be elected by Majlisi Milli of Majlisi Oli of the Republic of Tajikistan upon recommendation of the President of the Republic of Tajikistan. Judges of the Court of Gorno-Badakhshan Autonomous Region, the courts of regions, Dushanbe city, military courts of garrisons, courts of the cities and districts, the Economic Court of Gorno-Badakhshan Autonomous Region, the economic courts of the regions and the city of Dushanbe are appointed by the President of the Republic of Tajikistan upon recommendation of the Supreme Court of the Republic of Tajikistan.

Recall and dismissal of judges shall be carried out in accordance with Article 18 of the above Constitutional Law.

Decree of the President of the Republic of Tajikistan as of January 5, 2015 approved the Program of judicial and legal reform in the Republic of Tajikistan for 2015-2017.

Following up on the previous programs of judicial and legal reforms, this Program has been designed to meet the learning experience of developed countries, the analysis of structures and activities of the courts, examining the activities of other law enforcement agencies related to judicial activities. This Program is the third phase of judicial and legal reform, which is scheduled to introduce a series of steps to improve the legislation and activities of the courts of the Republic of Tajikistan.

It provides for further development of procedural legislation, improvement of the structure and activities of the Supreme Court and the Higher Economic Court, regional, city and district courts, reform of the juvenile justice system, measures to ensure enforcement of judicial decisions, improve the structure and activities of bailiffs, enhance provision of legal aid to the population, improve the quality of judicial and legal examinations, procurement of courts, social protection of judges and administrative staff of courts, as well as other activities of the judiciary.

In view of the amendments introduced to the above Constitutional Law, the selection and training of candidates for judges and judges-in-training, advanced training of judges and judges-in-training, selection and presentation of candidates for judicial office and dismissal of judges, administration of qualifying examinations are respectively assigned to the Supreme Court and the Higher Economic Court of the Republic of Tajikistan, which are to execute their powers in line with anti-corruption recommendations.

As to the recommendations on the need to provide for mandatory publication of the Supreme Court’s decisions and ensure case examination mechanism securing the principle of random assignment, we inform you that the information activities of the Supreme Court are implemented by the media sector and information center. Resolutions of the Plenary Sessions of the Supreme Court, judicial acts and case law analysis in civil, family, criminal and administrative cases are published in the Bulletin of the

Supreme Court and posted on the website of the Supreme Court of the Republic of Tajikistan. In accordance with Articles 77 and 83 of the Constitutional Law of the Republic of Tajikistan “On the Courts of the Republic of Tajikistan”, distribution of cases between judges in the established procedure is assigned to the heads of regional, city and district courts. In our view, respecting the principle of random assignment of cases is not acceptable, as the cases are distributed by the president of the court between the judges considering their workload, experience and qualifications.

In order to ensure correct and uniform application of the law, the Supreme Court of the Republic of Tajikistan adopted the Resolution of the Plenary Session of the Supreme Court of the Republic of Tajikistan “On Judicial Practice in Criminal Cases on Receiving and Giving Bribes and Commercial Bribery” No. 11 dd. December 19, 2008, whereby courts were provided with the guidelines for comprehensive and proper handling of cases in this category.

The recommendations also invited to continue improving the existing ethics for the judiciary in order to ensure their practical application.

In this regard, in order to strengthen the judiciary, secure the principles of judicial activities, ensure compliance with the rules of professional ethics and moral and ethical standards in administering justice, honest and conscientious attitude of judges to their activities, increase personal responsibility of judges in execution of their duties, as well as the respect for human values, the Code of Ethics of Judges of the Republic of Tajikistan was adopted on November 29, 2013 at the Conference of Judges, and is included in the curriculum of the Training Centre at the Supreme Court.

According to Articles 6 and 7 of the Code of Ethics, judges in all cases shall strictly abide by the Constitution of the Republic of Tajikistan, Constitutional laws and other laws, as well as respect high moral and ethical standards of behavior, use their knowledge and expertise in the performance of duties assigned, be worthy of their titles, exercise their powers in a professional manner, be honest and fair, in all situations preserve their dignity, and avoid anything that would impair the authority of the judiciary and damage the reputation of the judge. Judges must exercise their civil rights and perform civil duties in good faith. They must not use their official position to obtain personal benefits in civil relations. Judges should refrain from concluding contracts entailing financial liabilities with their subordinates, as well as with the individuals participating in the cases pending before the former. Judges shall not use their status to obtain any goods, services, commercial or other benefits for themselves, their family, friends, acquaintances (such as receiving a loan, concluding contracts on terms other than those provided in respect of other individuals); demand or accept privileges, payments and benefits not provided by the legislation of the Republic of Tajikistan (e.g. interest-free loans, services, payment for entertainment, recreation, travel costs etc.) and must take steps to ensure that these privileges, payments and benefits are not accepted by the members of their families, if this is caused by the acts that the judge has committed or intends to commit, or by an act of omission of the judge in connection with the fulfillment of their official duties.

With regard to the recommendations to reform the Council of Justice so that it would not depend on other branches of government and would be the guarantor of the independence of the judiciary, it should be noted that in accordance with the amendments made to the Constitution of the Republic of Tajikistan the Council of Justice has been abolished and its powers have been transferred to the Supreme Court and the High Economic Court.

The Constitution of the Republic of Tajikistan guarantees each individual the right to legal aid, including those unable to pay for such legal aid. The state guarantees legal aid to all those in need to improve efficiency of the right to a fair trial. Thus, to establish fundamental guarantees for implementation of the right of citizens of the Republic of Tajikistan to qualified legal aid in the Republic of Tajikistan, and organizational and legal frameworks to form state and non-state systems of free legal aid, define legal frameworks of the legal practice, specify rights and duties of attorneys, as well as arrange legal practice, the adoption of the Law of the Republic of Tajikistan “On the Legal Profession and

Legal Practice” has been initiated by the state.

The Law of the Republic of Tajikistan “On the Legal Profession and Legal Practice” provides that the status of attorney can be granted to an individual with higher education in law obtained at a state-accredited establishment of higher professional education, or with an academic degree in law. The said individual should also have at least two years of professional experience in legal activities or complete a traineeship at an attorneys’ group within the timeframes established by the Law. The status of an attorney shall be granted by the Qualifications Commission at the Ministry of Justice of the Republic of Tajikistan after the candidate seeking the status of an attorney has passed a qualification examination.

The Law of the Republic of Tajikistan “On the Legal Profession and Legal Practice” also enshrines important provisions securing the independence of attorneys.

**Assessment of Progress - 17th Plenary**

**SIGNIFICANT PROGRESS/PROGRESS/LACK OF PROGRESS**

Text

## Recommendation 20

- *To continue dialogue with the business sector by conducting informational and clarifying work with the companies on issues of corruption risks and practical solutions related to these problems.*
- *To engage companies in comprehensive consultations on issues of encouragement of bona fide business, for example, on such issues as introduction of corporate responsibility for corruption, accounting and audit, corporate governance, simplification of the state regulation of entrepreneurship, targeted measures oriented at the most corrupted sectors, etc.*
- *To introduce the requirements for information disclosure and transparency and also anticorruption programs at the state-owned enterprises – either being owned or controlled by the state.*
- *To support business associations in their efforts aimed at facilitation of integrity of business (especially this relates to local companies, small and medium enterprises as well as organization of collective anticorruption actions of companies and associations).*

### 17th plenary, 14-16 September 2016:

#### ***Measures taken to implement the recommendation***

In order to set up a platform for an open and direct dialogue between the public and private sector, the Advisory Council on Improvement of Investment Climate was established in 2007 following the Decree of the President of the Republic of Tajikistan.

The Advisory Council on Improvement of Investment Climate functions at the highest level with a view to implement the reforms necessary for the improvement of investment and business climate. The Council consists of the representatives of government agencies, domestic and foreign private sector, as well as development partners.

The President of the Republic of Tajikistan is the Head of the Advisory Council, and the Head of the State Committee on Investments and State Property Management of the Republic of Tajikistan is the Executive Secretary of the Council.

As part of its activities, the Advisory Council is actively implementing reforms to reduce the complexity of procedures of state registration of legal entities and individual entrepreneurs, the permit system, obtaining of construction permits, inspections of business entities, taxation, as well as to facilitate foreign trade, ensure protection and support of entrepreneurs and investors, establish legal and economic frameworks for public private-public partnership etc.

Along with the reforms to reduce complexity of business regulation, reforms are also undertaken to improve the investment climate in various sectors of economy, including tourism, insurance, industry sectors and development of national production, agriculture and agribusiness, as well as energy sector to secure development of the national production, transport sector etc.

One must note the progress of private-public partnership at the regional level, following which 33 regional councils on improvement of investment and business climate have been established and are successfully operating in Gorno-Badakhshan Autonomous Region, Khatlon and Sogd Regions, and districts of republican subordination.

As part of the activities of the national and regional Advisory Councils, round table meetings are regularly held presenting the results of the implemented reforms striving to facilitate regulation of

business operations, as well as the adopted laws and legal instruments regulating business activities, to the private sector.

Round table meetings are aimed primarily at promoting legal and economic awareness of entrepreneurs as regards the results of reforms and holding of awareness-raising activities on corruption risks and practical solutions concerned with such problems.

Moreover, following the initiative of the State Committee on Investments and State Property Management of the Republic of Tajikistan, the competent authority for the support of entrepreneurship, the Government Working Group was established in February-March 2016 from among the corresponding ministries and departments headed by the First Deputy Prime Minister of the Republic of Tajikistan. The Working Group held meetings with entrepreneurs in all cities and districts of the state, specifically in Dushanbe (February 4, 2016), Tursunzoda (February 13, 2016), Qurghonteppa (Kurgan-Tyube) (February 19, 2016), Khujand (February 26, 2016), Vahdat (March 2, 2016), Nurobod District (March 3, 2016), and Khorugh (March 5, 2016). Participants of the meetings discussed recent achievements of the reforms promoting the development of private sector, relevant business development issues, specifically corruption risks in business operations, as well as listened to the proposals and comments of entrepreneurs on how to address the existing problems, which were summarized upon completion of the Working Group's activities and submitted to the Government for further review and urgent response.

As a result, the Law "On State Budget of the Republic of Tajikistan for 2016" was amended on June 9, 2016, No. 1321.

In accordance with these amendments, VAT for the import of wheat has been reduced to the level of ten percent, except for the import of wheat for the production of excisable goods.

For construction companies, private general educational, pre-school and commodity institutions, VAT has been set at the level of five percent.

In order to protect the domestic market from the import of low-quality jewelry, VAT and customs duty have been cancelled, introducing a unified customs duty per one gram of an imported product, specifically 18 somoni per one gram of gold and 3.6 somoni per one gram of silver.

The Law "On Permit System" dd. May 14, 2016, No. 1313 was amended reducing the number of permits by five items or 15 percent.

Moreover, the State Committee on Investments and State Property Management in cooperation with business associations, non-governmental organizations with the support of development partners holds regular events aimed at providing clarifications and raising awareness of the private sector on corruption risks and practical solutions related to such problems.

*Activities of business associations to promote business integrity and fight against corruption.*

At present there are 150 business support associations and non-governmental organizations functioning in the Republic. These organizations work primarily in advisory services, agriculture, tourism, construction, pharmaceuticals, transport and other sectors striving to develop entrepreneurship.

The Union for the Development of Private Sector operates in the Republic bringing together more than 35 associations and non-governmental organizations, and working closely with the State Committee on Investments and State Property Management of the Republic of Tajikistan.

*Introduction of corporate governance in state-owned enterprises*

As of today, there are 118 open joint-stock companies in total, whose 100 percent stock of shares is owned by the state. The number of joint-stock companies with the state's stake in the authorized capital amounts to 24. The state also holds a stake in the authorized capitals of four limited liability companies.

Active steps are being taken to implement corporate governance and development of the activities of the council of supervisors in open joint-stock companies and limited liability companies with the state's stake in their authorized capitals. Particularly, in line with the requirements of the Law "On Joint-Stock Companies" and Standard Regulations of the council of supervisors of the joint-stock companies

adopted by the Resolution of the Government of the Republic of Tajikistan dd. May 30, 2015, No. 347, councils of supervisors are established in 45 open joint-stock companies and limited liability companies with the state's stake in their authorized capital. By the end of 2016 councils of supervisors will have been established in nine more open joint-stock companies and limited liability companies.

In order to implement the directive of the Government of the Republic dd. January 6, 2015, No. 22-7 and in accordance with the Action Plan of the Department of State Property at the State Committee for Investments and State Property Management approved on January 14, 2016, amendments have been drafted to the Law "On State-Owned Enterprises", which provides for the establishment of councils of supervisors in the state-owned enterprises. This draft law is being currently reviewed by the Executive Office of the President of the Republic of Tajikistan.

*Reducing the complexity of state regulation of entrepreneurship*

The most important achievement of the reforms is that Tajikistan became a member of WTO in 2013 and acceded to the UN Convention on the Recognition and Enforcement of Foreign Arbitral Awards in 2012. This undoubtedly favors the improvement of the country's international status, development of international trade, capital raising, competitiveness of domestic products on international markets, improvement of conditions for the development of entrepreneurship and private sector in the Republic of Tajikistan.

As a result of reforms, the *One Stop Shop* system has been implemented for the registration of legal entities and individual entrepreneurs, designed to reduce the complexity of registration of business entities, ensure transparency, remove various barriers in establishing favorable conditions for the development of business activities.

By designing the *One Stop Shop* system for the registration of legal entities and individual entrepreneurs a number of registering authorities involved has reduced from four to one, the time of registration from 49 to five days, and the quantity of documents required for the registration from ten to six. The requirement to form the authorized capital of enterprises prior to registration has been abolished and is now optional, allowing for the capital to be formed within one year as of the day of registration of business entities. It should be noted that the reform in this direction is still underway.

With regard to the protection and support of entrepreneurs and investors, the Laws of the Republic of Tajikistan "On Joint-Stock Companies" and "On Bankruptcy" have been amended, and the Law of the Republic of Tajikistan "On State Protection and Support for Business" has been adopted as amended. The latter law focuses on the key principles of state support and protection of entrepreneurship, specifics of drafting and adoption of legal instruments reflecting the interests of business entities, guaranteeing the freedom of economic activity, entrepreneurship, equality and legal protection of all forms of ownership including private ownership.

Based on this law, one of the main areas of state support of entrepreneurship is the financial support of business entities, including by means of the Entrepreneurship Support Fund, whose controlling interest is owned by the state. This fund is financed by the state budget and via other sources, and its primary goal is to provide financial support to entrepreneurs and grant soft loans with favorable interest rates.

Also, upon instruction of the President of the Republic of Tajikistan, significant activities have been carried out to reduce the number of permits up to 50 percent and execute over 30 percent of permitting documents by implementing an e-system. In this regard, an Internet webpage ([ijozat.tj](http://ijozat.tj)) has been launched for accessing permits and licenses, where one can find all the required information on the procedure of obtaining such permits and licenses.

To further reduce the complexity and increase the transparency of inspections of entrepreneurial activities, the Law of the Republic of Tajikistan "On Inspections of Business Entities in the Republic of Tajikistan" has been drafted and adopted as amended, based on the experience of Great Britain and Germany. In accordance with the law, all inspection authorities are to submit a report on the inspections

conducted to the national and local government authority in the area of entrepreneurship. The law also provides for a reduction in the number of inspection authorities and inspections, as well as launching of a special website for the entrepreneurs to find all the required information on the inspections conducted.

Additionally, to stimulate the inflow of investments and establish the most favorable investment environment nationwide, the Laws of the Republic of Tajikistan “On Privatization of State Property of the Republic of Tajikistan”, “On Production Sharing Agreements”, “On Concessions”, “On Free Economic Areas”, “On Credit History”, “On Investment Agreements” etc. have been adopted. Following the adoption of the latter law, investors with major projects now have a possibility to request special privileges and guarantees from the state depending on the specifics of the project and anticipated risks.

It should be noted that the second phase of implementation of the Program for State Protection and Support of Business has started in 2015 and is seeking to continue the reforms aimed at improving the investment and business climate.

According to paragraph 12 of the Action Plan of the Republic of Tajikistan on implementation of the second phase of the Program for State Support of Business in the Republic of Tajikistan for 2012-2020, approved by the Resolution of the Government dd. December 1, 2014, No. 740, the state is to introduce the reform of licensing system in 2015-2017 to reduce the list of licensed activities and remove administrative barriers for entrepreneurship.

In this regard, the State Committee on Investments and State Property of the Republic of Tajikistan analyzed the laws of the permit system and licensing of certain types of activities, highlighting the need to implement a reform in this direction.

Based on this, the draft Decree of the President of the Republic of Tajikistan “On Reform of Licensing in the Republic of Tajikistan” has been prepared and submitted to the Executive Office of the President of the Republic of Tajikistan for further review.

In this regard, the Law “On Permit System” was amended in 2015 to continue reforming the permit system.

Following the amendments introduced to the Law, the number of licensing authorities has been reduced to 19, whereas the quantity of permitting documents has decreased to 73, which makes up a 15 percent reduction.

The state has also implemented an online application system for obtaining over 30 percent of permitting documents by two pilot ministries, namely the Ministry of Health Care and Social Protection of Population and Ministry of Transport, which makes up 35 percent of permitting documents listed in the Law “On Permit System”. This is primarily aimed at increasing transparency in the activities of state licensing authorities, eliminating corruption risks, and ensuring access and efficiency of public services for entrepreneurs and population.

The Law “On Inspections of Business Entities in the Republic of Tajikistan” adopted in December 2015 provides for the introduction of a system of inspections based on risks, exclusion of inspections within first two years of establishing of business entities and registration of inspections in the log book to ensure transparency and eliminate unwarranted inspections.

The Law of the Republic of Tajikistan “On International Commercial Arbitration” is in the legal system of the Republic of Tajikistan for the first time regulating the procedure of commercial arbitration, its activities, consideration of commercial disputes, as well as recognition and enforcement of international arbitration awards in the territory of the Republic of Tajikistan. Thus, the adoption of this law secures a legal framework for the establishment of an alternative platform to resolve international commercial disputes in line with the provisions of the international standards, which will favor far greater attraction of foreign investment in the economy of the Republic of Tajikistan.

In order to facilitate the process of liquidation of business entities, the Law “On State Registration of Legal Entities and Individual Entrepreneurs” dd. May 14, 2016, No. 1319 has been amended with respect

to the expulsion of inactive legal entities, individual entrepreneurs, branches and representative offices of a foreign legal entity from the Unified State Register following the decision of a state registration authority.

According to these amendments, a legal entity, individual entrepreneur, branches and representative offices of a foreign legal entity that did not submit statements and returns established by the tax law of the Republic of Tajikistan, carried out no customs imports or exports, conducted no banking transactions over the period of the last twelve months before the adoption of a corresponding decision by the state registration authority, shall be de facto considered as terminated entities (hereinafter referred to as the inactive entity). The inactive entity shall be excluded from the Unified State Register following the decision of a state registration authority in the procedure established by the Government of the Republic of Tajikistan.

In order to protect and support the audited business entities, ensure safety and health of citizens of the state, as well as state security, the Law “On Inspections of Activities of Business Entities” was adopted on December 25, 2015 based on international best practices, and came into effect as of July 1, 2016.

To implement the concept of state policy for attraction and protection of investments, the parliament adopted the Law “On Investments” on March 15, 2016 as amended. This law established new concepts and provisions, specifically a new term for investments, investment disputes, setting up a One Stop Shop for investors, as well as a number of new provisions with account of the international best practices.

Moreover, the Law “On Dehqan Farms” has been adopted as amended this March. The new law grants the Dehqan farms the status of legal entities, explains and strengthens the right of members of collective Dehqan farms to land use.

The law specifically improves management of Dehqan farms and defines the rights and obligations of the shareholders, as well as allows farmers to lawfully build field stations in the territory of Dehqan farms, which will facilitate greater efficiency during the peak period of farm works.

In view of this, moving beyond the significant achievements of the implemented reforms the Government of the Republic of Tajikistan shall remain committed to its policy and continue pursuing reforms in other strategic directions of developing business activities and improving investment climate in the country.

For this purpose the government has adopted and is implementing the Action Plan of the Government of the Republic of Tajikistan for the improvement of performance of the Republic of Tajikistan in the “Business Operations” report of the World Bank Group dd. May 3, 2014 No. 301. This Action Plan covers each of the ten values of the “Business Operations” rating, the implementation of which will substantially improve the investment and business climate in the state.

This plan has specifically initiated the reforms for implementation of the One Stop Shop system for obtaining of construction permits, One Stop Shop system for registration of property, as well as given an impulse to complete the implementation of the One Stop Shop system for registration of legal entities and individual entrepreneurs, and activation of the One Stop Shop system for export and import operations.

With regard to the reforms for development of the secondary securities market, a thorough analysis has been carried out and the Action Plan of the Government of the Republic for the development of secondary market of securities and stock exchanges has been drafted. As part of this reform, the first securities exchange “Birjai Osiyoi Markazi” has been established in the country.

Indeed, as a result of the implemented reforms the private sector is gradually developing and presently produces 67 percent of GDP, provides 65 percent of employment of the economically active population and over 79 percent of tax revenues to the state budget. Moreover, the development of entrepreneurship has favored the reduction of poverty level of the population from 80 percent in 2003

to 31 percent in 2015.

It should be noted that the Government of the Republic of Tajikistan is planning to keep going forward and continue implementing the reforms necessary to improve the investment climate, develop private sector and ensure sustainable economic development.

**Assessment of Progress - 17th Plenary**

**SIGNIFICANT PROGRESS/PROGRESS/LACK OF PROGRESS**

Text