

ANNEX

ACTION FICHE FOR ARMENIA - ENPI AAP 2008

1. IDENTIFICATION

Title	Support to Justice Reform - CRIS N° ENPI/2008/19632		
Total cost	18 M€ (EC contribution)		
Aid method / management mode	Sector Policy Support Programme: 16 M€ -Sector budget support (centralised management); TA component: 2 M€ - Project mode (centralised management)		
DAC-code	15130	Sector	Legal and Judicial Development

2. RATIONALE AND COUNTRY CONTEXT

2.1. Economic and social situation

With respect to the **macro-economic framework**, Armenia continues to post double-digit growth, declining poverty rates, moderate inflation, and a comfortable international reserves position, amid significant exchange rate flexibility. Acceleration of the structural reforms is however needed to improve competitiveness and sustain broad-based growth.

Fiscal policy has been prudent, but increasing expenditure pressures are creating medium term fiscal risks. Tax collection still falls short of financing needs for infrastructure and poverty-reducing services, calling for further strengthening of tax administration.

Monetary policy will need to be tightened in light of rising inflationary risks. A firm commitment to a medium-term inflation target will be critical for anchoring price expectations and building credibility in the transition to full-fledged inflation targeting. To limit real exchange rate appreciation, the authorities should rely more on fiscal policy and second-generation reforms, while maintaining exchange rate flexibility. Policies aimed at boosting domestic competition and productivity are needed to improve competitiveness¹.

In the sphere of **public finance management** (PFM), Armenia already has a solid overall public finance system with reliable and consistent budget process, a modern treasury system, as well as an adequate public procurement system. Armenia has all the basics in place and is in a position to move to more sophisticated reforms in PFM². The main directions of Armenia's PFM reforms involve introduction of a government financial management information system, public sector accounting reform, introduction of internal audit and a commitment to introduce performance into the budget.

A major achievement by the Government of Armenia (GoA), with the support of the EC-funded Food Security Programme (FSP), has been the introduction of a Medium Term Expenditure Framework (MTEF). The latter provides a good overall framework for budget support operations. Work remains to be done to raise capacity in budgeting and planning, to improve efficiency in resource allocation and introduce some form of results-based programming. To build upon the FSP's experience, PFM-related assistance should focus on areas such as linking policy objectives with the budget, improving budget structure, planning and preparation as well as introducing performance measurement in the sectors and line ministries supported.

¹ Last IMF Country Report No. 07/377 of December 2007

² World Bank study "Integrating budget reforms in Armenia" released at the end of 2006. The study is part of the programmatic Public Expenditure Review (PER) and bases its analysis on the PEFA framework indicators.

2.2. Cooperation policy of beneficiary country

Currently, the GoA development policy and strategy mainly concentrates on poverty reduction, which should be combined and directly linked with economic growth. Proposing relevant legal reform in its strategy, the GoA clearly underlines the issue of legal approximation with EU “Aquis Communautaire”.

The draft PRSP 2 is currently (March 2008) under discussion with involvement of civil society, relevant ministries and state agencies. This new PRSP pays serious attention to judicial system reform as well as an anti-corruption strategy, and their effect on poverty reduction.

The GoA is finalizing a new 3-year anti-corruption strategy. This new strategy focuses on implementation of legislative measures introduced in recent years and measures of corruption prevention. Furthermore, within the Commitment to the Millennium Challenge Account (MCA) Criteria, the GoA is committed to improve the judicial system by putting in place an independent judiciary that is able to guarantee due process of law and holds public confidence.

Following successful implementation of the first phase of reforms initiated by the 2005 Constitutional referendum, the MoJ developed a strategy for a second phase of Justice Reform. This strategy, including a plan of actions and indicative time schedule, has been adopted, but needs further development. Part of the Technical Assistance (TA) component of the present proposed programme may be used to support efforts in this respect.

As follows from the draft PRSP 2, the Action Plan of the GoA, the 2008-2012 strategic programme of the GoA and the strategy of Justice Reform, the GoA and particularly the MoJ are committed to continue reforms. GoA commitment was reaffirmed at the last EU-Armenia Cooperation Committee and during the working visit of the President of Armenia to Brussels (Oct. 2007).

2.3. Government Sector Programme

Sector policy is outlined in the “Strategic Programme of actions to be taken by the MoJ of the Republic of Armenia aimed at the Legal and Institutional Reforms” (hereinafter “Strategic Programme”). However, since justice reform covers a larger scope than that under the responsibility of MoJ, including issues concerning the prosecution, judges, advocates etc., some aspects of reform are not covered in the Strategic Programme. Therefore in the present project, the draft PRSP 2 is also considered as a basis document. The two documents are interlinked and cover some common issues such as further expansion of free legal aid structures, Development of Commercial Court of Arbitration and Mediation, Increase of public awareness, Fight against corruption etc. Furthermore, they are consistent with a range of pivotal strategic documents, among which the Action Plan of the GoA, the 2008-2012 strategic programme of the GoA, the Strategy for Sustainable Economic Development, etc. Ideally, for a Justice reform of this scope, a centralized JLS approach strategy that covers all aspects of different branches of justice implementation should be contemplated. That kind of approach would make possible the elaboration of a specific budget that would be linked with the sector and not only with MoJ activities.

In terms of State budget allocation, and according to the 2008-2010 MTEF, expenditures for Ensuring Protection of Public Order programme will increase by 1,912.2 million drams (10.4%) in 2008, 1,210.1 million drams (6.0%) in 2009, and 1,370.7 million drams (6.4%) in 2010. At the same time, expenditures for Maintenance of the Criminal-Executive System programme will increase by 317.2 million drams in 2008, 173.5 million drams in 2009, and 20.8 million drams in 2010.

Although the reforms itself are rather ambitious, the implementation process so far has delivered encouraging indicators. All the actions envisaged for 2007 were completed within

the deadlines or with very small delays, creating or strengthening legal and institutional capacity for further deepening the reform process, e.g.:

- establishment of legal regulation on status of judges, their independence and impartiality, procedures for appointment/promotion, discipline and rules of conduct, status and functions of Council of Justice (CoJ);
- Revision of Law on Procuracy;
- Amendments to the Law on Advocacy, introducing public defenders institute;
- Establishment of Judicial School;
- Legal stipulation to publish officially the court decisions;
- Nomination of judges and creation of specialized courts established under the Judicial Code, etc.

In addition the technical and human capacities built with the assistance of EC and WB projects ensure enough potential for further execution of sector reform.

The GoA recognised the necessity to base its PRSP and the proposed Strategy for Sustainable Economic Development on reliable national statistical database. The National Statistics Service (NSS) has made significant changes to the national accounts methodology adopting the concept of gross value added using transaction prices mostly recorded on an accrual basis.

While data provision for surveillance is adequate overall, further improvements are needed in real, fiscal, and external sector statistics in order to enhance the design and monitoring of economic policies. The overall quality, timeliness, and coverage of macroeconomic statistics have improved significantly over the past few years and the WB has substantially facilitated this process. On November 7, 2003 Armenia subscribed to the Special Data Dissemination Standard (SDDS). Furthermore, The State Bureau of Statistics of Armenia continues technical discussions with Eurostat to align the national statistical base with EU NUTS criteria.

Since performance monitoring for the proposed SPSP will require not only financial, but also sector-specific quantitative and qualitative indicators, it is proposed to use sources such as the statistics/databases of Courts, MoJ and other interlocutors, providing TA to respective departments as needed. Selection of specific indicators should be examined at a later phase, in consultation with the MoJ and other Donors.

2.4. Lessons learnt

Following the successful experience budget support under the FSP, this approach was applied in the 2006 Action Programme (AP) to support the reform of the Vocational Education Training and the child care systems. The 2007 AP includes an additional sector support programme to continue the VET reform.

However, although the sector budget support concept is familiar for the Ministry of Finance and Economy, it is relatively new for the justice reform. Therefore, work is only under way to formulate good and measurable standard indicators for this "sector", and the experience shows that the line ministry (MoJ) and other stakeholders will need some training to fully understand the new concept of project planning and implementation.

2.5. Complementary actions

The following EC/other donor projects are complementary to the proposed Sector Policy Support Programme (SPSP):

Under the AP 2004, the fourth phase of successive 2-year projects of Armenia – EU Policy Legal Advice Centre (AEPLAC) dealing with legal approximation and PCA implementation

is ongoing. New project on legal approximation and PCA/AP implementation under the AP 2006 is in preparation.

Under the AP 2004, the project “Establishment of a Chair for European and International Law and Centre for European Law and Integration at Yerevan State University” is ongoing and aims to secure the availability of qualified professionals in the field of European Law, business, economy and political science as well as to pursue the legal approximation process to the European Union and to promote the PCA/ENP.

Under the AP 2006, the project on “Access to Justice” is in final stage of preparation.

The WB programme for the Second Judicial Reform Project is ongoing. Armenia applied to WB for the second phase of a loan to support the reform, project appraisal of which (US\$ 22.5 million) is currently under consideration of the WB. The WB future activities will mainly concentrate on the administration improvement and infrastructure, including rehabilitation of court premises, computer hardware as well as some specific training.

Finally, the Council of Europe (CoE) plans some activities in the sphere of legislation, particularly for penitential system and some training, particularly concerning the Human Rights.

2.6. Donor coordination

The PRSP is the major document outlining the social and economic development programmes of Armenia. Major donors, including EU, USAID, UN, DFID and WB use it as a reference document to develop their country strategies in close coordination with the GoA’s strategy.

The Ministry of Finance and Economy (MFE) is the leading institution as regards donors’ financial support (both: grants and loans). The general coordination of EC programmes is currently performed by the National Co-ordinating Unit, which is a subdivision of the MFE. The MFE introduced a unified information system covering donors’ strategies and projects, which however lacks regular update.

Sector coordination is actively led by MoJ, which works in cooperation with MFE due to the budgetary nature of the programmes in the sector (loans). So far, the EC assistance, of a project-type, enjoyed close cooperation with both Loan-type e.g. WB and TA-type donor’s initiatives e.g. CoE, USAID. Coordination is performed through the MoJ and its Programme Implementation Unit of Justice Reform, as well as on bilateral level. Due to the cross-sectoral nature of justice issues, a broader coordination mechanism should be contemplated for the implementation of the reform.

3. DESCRIPTION

3.1. Objectives

The general objective of this SPSP is to support rule of law through support to the Justice chain reform that aims to secure better separation of powers and real independence of the judiciary. That should help to restore the trust of population toward the courts and judges, to improve the quality of justice and to achieve better access to justice, encouraging people and particularly the representatives of vulnerable groups to execute their right for justice through the reformed courts system.

3.2. Expected results and main activities

In discussions with key stakeholders, particularly MoJ and Constitutional Court, the issue of proper implementation of newly adopted laws and regulations as well as some gaps in the legal framework/structural arrangements and “traditional”

corruption of the judiciary were identified as the main barriers/bottlenecks that impede a swift development of the sector. Therefore, the main activities of the project are:

- a. Combining the strategies of different fields of judicial chain reforms into a common reform strategy with a strong emphasis on anticorruption measures and development of JLS sectoral PFM and MTEF;
- b. Streamlining the implementation of laws via establishment of a permanent training system/scheme to train relevant interlocutors/direct implementers (including relevant MoJ servants, Judges, Advocates, prosecutors and civil society) for implementation of newly adopted laws;
- c. Provision of preconditions for anticorruption measures within the judiciary sector, including “decent salary” for judges to avoid an “indirect pre-set necessity to take bribes”, strict control over misbehaviours of judges via monitoring system (strong cooperation on this issue with WB project is an imperative) and unavoidability of consequent disciplinary sanctions/criminal proceedings;
- d. Strengthening the status of the CoJ to ensure that in practice it is independent from the legislative and the executive branches and that the Council can guarantee the independence of the judiciary and is the only and final instance with regard to issues related to judges and magistrates;
- e. Further development/adaptation/amendment of laws on the Procuracy, Advocacy and Arbitration procedures in line with international standards;
- f. Optimization of the Penitentiary System, including aspects of legal framework adjustment, structural optimization and implementation. Further reform of the penitentiary system in line with the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) in order to improve detention conditions;
- g. Strengthening cooperation with EU Member States relevant authorities in order to develop cooperation and exchange information, especially in the field of mutual recognition of legal acts.

This programme is intended to result in sector-wide improvements which will benefit the end users in terms of access to qualified judicial services. The expected results will be:

- a. Comprehensive strategy for implementation of judicial reform and proper PFM system in the Justice sector;
- b. Improved law implementation system;
- c. Substantial decrease of corruption in the judiciary;
- d. Improved access to justice leading to wider execution of the right to justice by the public;
- e. Increased independence of the judiciary leading to improved public trust in court proceedings;
- f. Accession to several international agreements in the field of JLS, in accordance, where appropriate, with the commitments made by Armenia under the ENP Action Plan.

The proposed approach is fully in line with the overall objective of the Paris declaration of 2 March 2005, aimed at supporting aid harmonisation and alignment through more assertive ownership by the GoA, providing a coherent international framework for monitoring

progress and for supporting GoA efforts for capacity building. Furthermore it contributes to the implementation of Additional Indicators on Aid Effectiveness agreed by the EC, i.e.

- To provide all capacity building assistance through coordinated programmes with a preference towards multi-donor agreements;
- To channel up to 50% of government-to-government assistance through the country's national systems;
- To avoid establishment of new project implementation units.

3.3. Stakeholders

Main public sector organisations to steer and implement the reforms are the MoJ and the CoJ. Regular discussion on policy issues should be held with the Cassation Court, Judicial Department, National Coordination Unit, Chamber of Advocates and General Prosecutor office. Apart from that, important interlocutors are the Committee of Courts Chairmen of the Republic of Armenia, the PIU of Justice Reform, and Judicial School. NGOs like different Lawyers Union/BAR association and research institutions also should be actively involved.

In terms of budgetary implications of the project, it is very important to maintain direct agreement and regular discussions with the MFE and particularly with the Treasury. Involvement of National Statistics Service, as well as the statistical departments of MoJ and other key actors is crucial for effective performance measurement.

All above-mentioned institutional structures are well established and receive assistance from different donors. Nonetheless, some TA will be needed to upgrade their capacities to deal with a relatively new approach of SPSP. In particular, the staff of MoJ will need additional training/mentoring in the field of sector MTEF planning, budget estimation and impact assessment.

In terms of broader JLS approach, it might be advisable to create under the aegis of the MoJ a coordination structure/committee that includes key stakeholders and donors to ensure wider policy discussion and better coordination of different activities.

3.4. Risks and assumptions

- Risks:
- Further appreciation of dram that could artificially diminish the proposed budget support and complicate assessment of the financial data;
 - Failure of the GoA to upgrade Judge's salaries up to a reasonable level due to budget constrains;
 - Inability of state/judicial statistical services to provide data in time, particularly disaggregated data.

- Assumptions:
- The GoA will manage to maintain donor coordination;
 - The General concept paper on reform will be prepared and adopted with assistance of TA component and/or twinning;
 - MoJ will lead the process of wider sector MTEF establishment (JLS dimension);
 - A broader sector coordination forum will be established (coordination committee);

- Action plan will be consulted with all stakeholders and adopted
- Performance monitoring indicator will be discussed and agreed with key donors and coordination committee.

Mitigation of the above-mentioned will be maintained via training and expert assistance within the TA component and by open, inclusive and continuous discussions with key stakeholders at the national and sectoral levels, as well as with key donors involved.

3.5. Crosscutting Issues

Obviously Justice Reform highly contributes to Good Governance, particularly through the establishment of proper administrative court proceeding norms, transparency of unbiased justice process and reduction of inequality due to court rulings. Human rights are another cross-cutting issue that directly depends on the possibility to defend these rights in court. Transparent nomination and career development regulation for judges also contributes to the Gender equality, mitigating traditional stereotypes and prejudices. The environmental sphere is not affected directly by the reform, however environmental issues will benefit from promotion of advocacy for issues of “collective” or “public” interest.

4. IMPLEMENTATION ISSUES

4.1. Implementation method

Untargeted budget support under centralised management.

The TA component will be implemented through centralised management.

4.2. Procurement and grant award procedures

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

4.3. Budget and calendar

The budget of this sector programme is of 18 M€, indicatively broken down as follows:

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|----------------------------------|---|------------|
| – Budget support: | € | 16 million |
| – Related technical assistance : | € | 2 million |

Budgetary support will be disbursed against satisfactory fulfilment of policy conditions to be identified and agreed upon by the Commission and the GoA. Disbursement is foreseen to take place in 3 tranches: a first up-front tranche of € 6m, following signature of the Financing Agreement, and two variable tranches of € 5m each, indicatively by August 31, 2009 and June 30, 2010 respectively.

A TA provision is included in the programme to finance (a) evaluation, audit, and visibility actions (indicatively € 0.50m), (b) independent expertise to assess the fulfilment by the GoA of the conditions for disbursements (indicatively € 0.25m) and (c) capacity building to the Recipient Institutions (indicatively € 1.25m).

The programme will in principle be implemented within 30 months starting from the signature of the Financing Agreement. Audit and evaluation activities may take place after this period.

4.4. Performance monitoring and criteria for disbursement

The performance monitoring arrangements and criteria for disbursement will be further developed during the formulation phase. The chapter 4 “Expected outcomes” of the strategy of MoJ will serve as a basis for the elaboration of performance measurement and definition

of criteria for disbursement. If necessary, the Commission, in assessing the fulfilment by the GoA of the criteria for disbursement, can be assisted by independent consultants. In such a case, the latter will be funded out of the technical assistance component of the programme (see 4.3 above).

4.5. Evaluation and audit

Evaluation of the programme as well as external audits may be carried out if so decided by the Commission. In such a case, they may be entrusted to independent consultants and be funded out of the technical assistance component of the programme (see 4.3 above).

4.6. Communication and visibility

The programme will follow the orientations of the Manual on Visibility of External Actions (e.g., press release at the signature of the FA, visibility for reports and studies, etc). Communication and visibility will be organised in conjunction with the MoJ, CoJ and other relevant stakeholders. On this issue, cooperation with the Centre of European Law and Integration (CELI) established in Yerevan State University is advisable, since the latter has developed and implements the “Information Dissemination Strategy Aimed at Increasing the Public Awareness About the European Union”.