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International Experience of the Criminalisation of Illicit Enrichment, and the Possibilities of Criminalising Illicit Enrichment in Armenia

Implemented in the framework of the "Multi-Faceted Anti-Corruption Promotion" Project

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1. Introduction

On 22 May 2014 the RA Government Programme for the period 2014-2017 was approved by the National Assembly. In section 2.3 (entitled "**Protection of Human Rights and Efficient Justice System**") of the Programme, anti-corruption issues are dealt with on pages 44-45, and should be based on a new vision of the fight against corruption. It is no secret that the criminalisation of illicit enrichment is one of the major ways of combating corruption, and indeed the Programme has committed the Government to the following:

> "Actions to reveal and neutralize 'illicit enrichment', conflicts of interest, incompatible activities and other restrictions will be drafted and implemented, as well as effective institutions to ensure the operation of measures in the event of breaches of ethics rules"
>
> "The Ethics Commission for High-Ranking Officials shall present suggestions to the relevant persons or bodies concerning measures in the event of failure to present declarations, breaches of the requirements of ethics rules, including rules concerning conflicts of interest, 'illicit enrichment' cases, incompatible activities and other breaches by public servants and other officials"

It is clear from the above that the Government is committed to introducing the concept of illicit enrichment, although it does not specifically mention the word "criminalization". However, as we shall see below, international experience shows that where "illicit enrichment" has been defined in legislation, invariably there are criminal sanctions applicable, including fines and imprisonment.

The creation of a constitutional and legislative basis is important for criminalizing illicit enrichment. Often, the prosecution of illicit enrichment cases is the responsibility of a specially-created independent anti-corruption body ("Body"). In many countries constitutional amendments are adopted for the creation of the Body, followed by amendments to the criminal code and only afterwards, on the basis of legislation, is illicit enrichment criminalized. Bearing in mind that Armenia is currently preparing constitutional reforms, we can confidently state that, in order to undertake an effective fight against corruption, the time has now come for the criminalisation of illicit enrichment. Taking into account that the principle of "presumption of guilt" may apply in the case of this criminal offence, here also it is necessary to make changes to the draft concept paper on constitutional reforms, in order to ensure the principle of "presumption of guilt"

This paper is based on international experience as well as the study of international and national anti-corruption legal documents, and offers solutions to the following issues:

- How the definition in Article 20 of the United Nations Convention Against Corruption ("UNCAC")[1] has been interpreted and implemented
- How legislation has been adopted, and what types of penalties are foreseen
- What institutional arrangements have been made to implement legislation criminalizing illicit enrichment

The paper then considers the lessons learned from international experience and makes recommendations regarding the importance of criminalizing illicit enrichment in Armenia as well as the measures necessary to implement it.

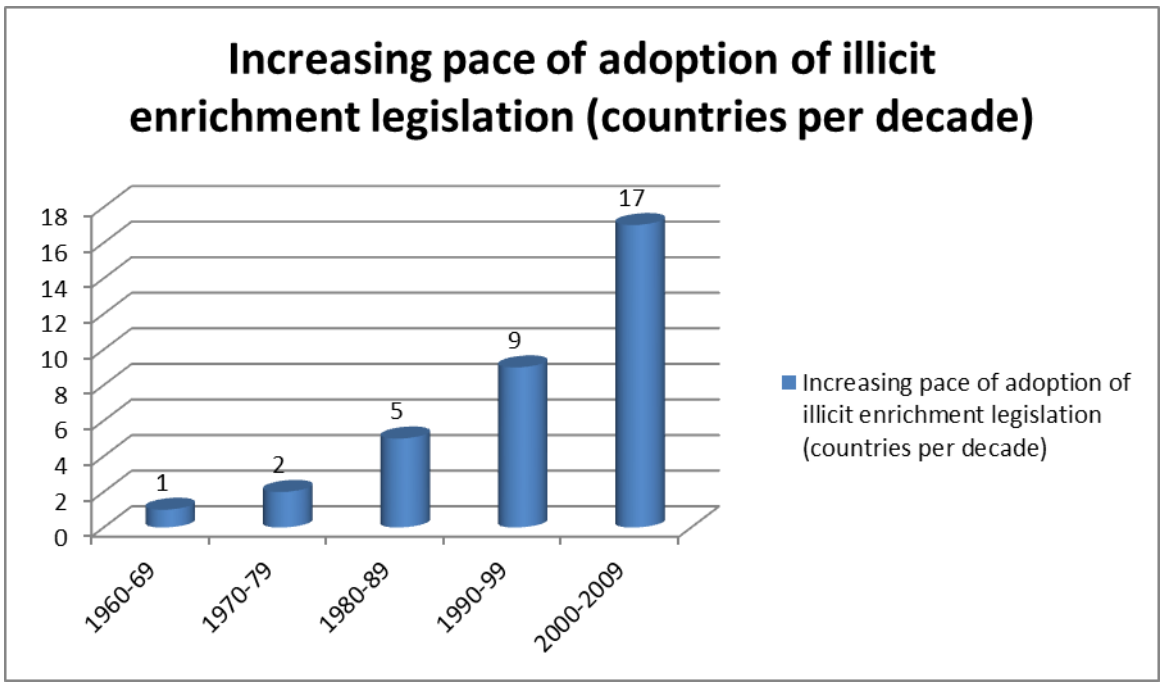
[1] The UN Convention Against Corruption was adopted by the UN General Assembly on 31st October 2003 and came into force on 14th December 2005. The Republic of Armenia acceded to the convention on 23rd October 2006, and the accession came into force on April 7th 2007.

2. International experience of the criminalization of illicit enrichment

The principle of criminalization of illicit enrichment has a long history, dating back to the 1930s when the first attempt was made to introduce relevant legislation in Argentina. Since then, at an increasing pace over the years, countries across the world have adopted the principle in their legislation. Currently more than 40 jurisdictions have such legislative provisions.

The chart below shows the increasing pace at which countries around the world have adopted legislation criminalizing illicit enrichment.

Chart no. 1



The text of UNCAC article 20 is set out below:

> *Article 20. Illicit enrichment*
> Subject to its constitution and the fundamental principles of its legal system, each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, illicit enrichment, that is, a significant increase in the assets of a public official that he or she cannot reasonably explain in relation to his or her lawful income.

It is worth noting that UNCAC is not the only international convention which defines illicit enrichment. Article 4(1)(g) of the African Union Convention on Preventing and Combating Corruption (2003) makes illicit enrichment an “act of corruption” and an “offence”, and the definition of illicit enrichment as set out in Article 1(1) is:

> "Illicit enrichment" means the significant increase in the assets of a public official or any other person which he or she cannot reasonably explain in relation to his or her income.

In addition, the Inter-American Convention Against Corruption (1996) also criminalises illicit enrichment.

Examples of legislation:

Set out below are the examples of the laws of Argentina, Hong Kong and India. They have been selected because they represent simple but comprehensive definitions of illicit enrichment.

Argentina Criminal Code, Article 286:
Section 2. Any person who, when so demanded, fails to justify the origin of any appreciable enrichment for himself or a third party in order to hide it, obtained subsequent to assumption of a public office or employment, and for up to two years after having ceased his duties, shall be punished by imprisonment from two to six years, a fine of 50 percent to 100 percent of the value of the enrichment, and absolute perpetual disqualification. Enrichment will be presumed not only when the person's wealth has been increased with money, things, or goods, but also when his debts have been canceled or his obligations extinguished. The person interposed to dissimulate the enrichment shall be punished by the same penalty as the author of the crime.
Section 3. Any person who, by reason of his position, is required by law to present a sworn statement of assets and maliciously fails to do so shall be punished by imprisonment from 15 days to two years and special perpetual disqualification. The offense is deemed committed when, after due notice of the obligation, the person obligated has not complied with those duties within the time limits established by the applicable law. Any person who maliciously falsifies or omits data required in those sworn statements by the applicable laws and regulations shall be liable to the same penalty.

Kong SAR: 1971, Prevention of Bribery Ordinance, Section 10
1. Any person who, being or having been the chief executive or a prescribed officer (Amended 14 of 2003, Section 17; 22 of 2008, Section 4), (a) maintains a standard of living above that which is commensurate with his present or past official emoluments or (b) is in control of pecuniary resources or property disproportionate to his present or past official emoluments shall, unless he gives satisfactory explanation to the court as to how he was able to maintain such a standard of living or how such pecuniary resources or property came under his control, be guilty of an offense.

India Prevention of Corruption Act of 1988, Article 13 states, "Criminal misconduct by a public servant. (1) A public servant is said to commit the offense of criminal misconduct, ... if he or any person on his behalf is in possession or has, at any time during the period of his office, been in possession for which the public servant cannot satisfactorily account, of pecuniary resources or property disproportionate to his known sources of income. This offense is also punishable with a minimum imprisonment of one year, extendable up to seven years, and also with a fine."

There are also several countries which have adopted legislation which is similar to the definition of illicit enrichment, but does not include all the elements of the offence. For example:

- In **Singapore**, article 165 of the Criminal Code provides that if an official enriches himself through a person with whom he has dealings in his capacity as an official, then this may be punishable by imprisonment and a fine
- In **Lithuania**, article 189^1 of the Criminal Code provides for an offence where a person has acquired property and knows or should have known that the property was not legally acquired
- A similar provision exists in **Romania**: article 267 of the Criminal Code states that if a person acquires or realizes an asset and is aware that the asset has arisen as a result of a criminal act, then the punishment is 2-5 years' imprisonment

International experience shows that in the event of a conviction for illicit enrichment, the variety of forms of punishment includes the following:

1. Prison sentence
2. Confiscation of the illicitly acquired wealth
3. Fine
4. Administrative penalties such as dismissal from office, prohibition (temporary or permanent) on future employment in the state sector or on election to a public position

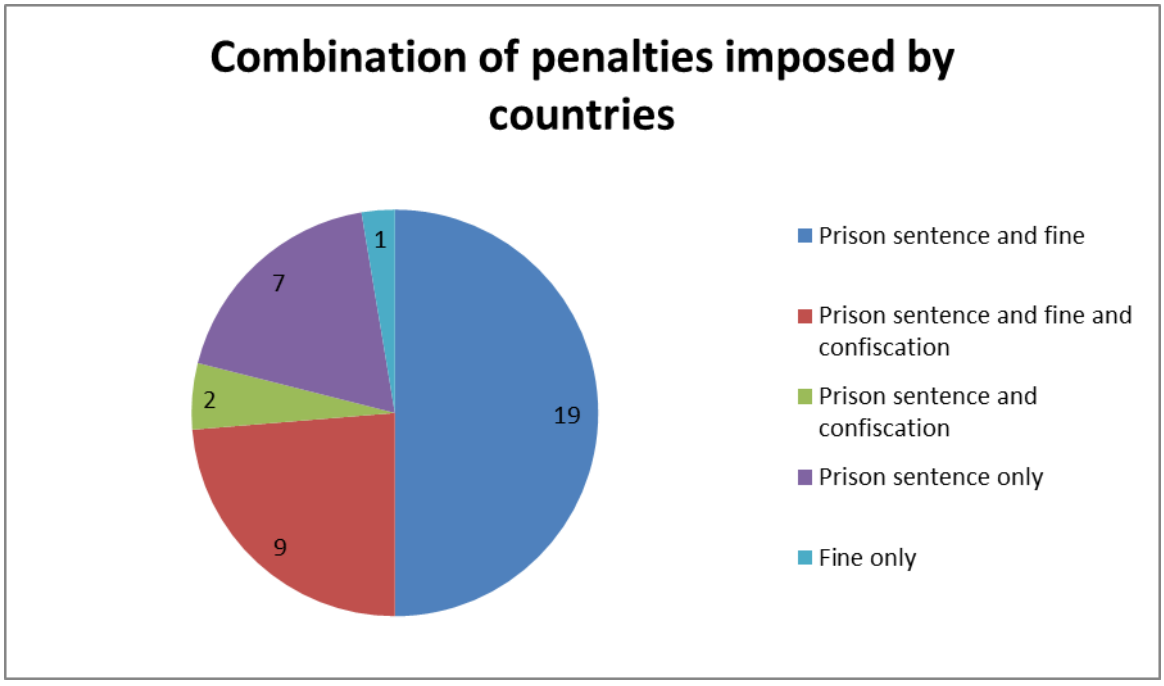
Most countries prescribe a combination of a prison sentence and a fine, and some prescribe both a fine and confiscation of the detected illicit wealth. In any case, almost all countries provide for a prison sentence, with the exception of Chile, Philippines and Romania – these three countries focus on the economic penalty of the offence.

In most countries which impose a prison sentence, the length of the sentence is less than 10 years. In some countries, the severity of the penalty imposed depends on the seniority of the official, and in some cases the size of the fine depends on the amount of illicit assets discovered.

It is worth noting that in all cases, illicit enrichment is defined as a criminal offence. There are no examples of illicit enrichment being defined as an administrative offence. This is not surprising: the nature of the offence is such that it is natural for it to be deemed a crime. Administrative penalties would not do justice to the nature of the offence.

Set out below is a chart showing the combination of penalties applied by countries. Full details of the penalties imposed in each country are attached in Annex 1.

Chart 2



Aspects of the criminal offence:

- "Public official". UNCAC defines this as:

"(i) any person holding a legislative, executive, administrative, or judicial office of a state party, whether appointed or elected, whether permanent or temporary, whether paid or unpaid, irrespective of that person's seniority; (ii) any other person who performs a public function, including for a public agency or public enterprise, or provides a public service, as defined in the domestic law of the state party and as applied in the pertinent area of law of that state party; (iii) any other person defined as a public official in the domestic law of a state party." (Article 2)

Some states adopt a very wide definition of "public official". For example, in India the definition extends to anyone serving in the public interest, whether or not they carry the title of public servant, and whether or not they are appointed by government. In Bhutan the definition includes "a person having served or serving under a nongovernmental organization or such other organization using public resources."

In addition, many of the countries above have provisions regarding the following:

- Liability of the accused even where the gains are held by relatives or associates[2]

In Brunei Darussalam, for example, the illicit enrichment provision extends to the property of "any person holding pecuniary resources or property in trust for or otherwise on behalf of the accused or [having] acquired such pecuniary resources or property as a gift or loan without adequate consideration from the accused".

Also, Article 52 of UNCAC states, "Without prejudice to Article 14 of this convention, each state party shall take such measures as may be necessary, in accordance with its domestic law, to require financial institutions within its jurisdiction to verify the identity of customers, to take reasonable steps to determine the identity of beneficial owners of funds deposited into high-value accounts, and to conduct enhanced scrutiny of accounts sought or maintained by or on behalf of individuals who are, or have been, entrusted with prominent public functions and their family members and close associates. Such enhanced scrutiny shall be reasonably designed to detect suspicious transactions for the purpose of reporting to competent authorities and should not be so construed as to discourage or prohibit financial institutions from doing business with any legitimate customer."

- Liability during office and also for a period of years after leaving office

Some countries restrict the offence to enrichment that has occurred during the period when the official was in office. However, the danger is of course that the official can arrange for the illicit funds to be received after he or she leaves office. Accordingly, several countries (e.g. Argentina, Colombia and Panama) prescribe that the offence applies also to enrichment occurring up to five years after the period in office.

- "significant"

The term "significant increase in assets" is not defined precisely. "significant" is relative to the legitimate income. Another term that is often used is "disproportionate". It would not be good policy to publicly state a minimum threshold below which cases will not be prosecuted, as this would be seen to condone minor corruption. However, the reality is that if the excess in wealth over legitimate income is only marginal, it may be difficult to prove that the assets were illicitly acquired. Therefore it may be reasonable for the prosecuting agency to have internal guidelines on this issue.

- "Assets"

This is often widely defined as changes in net worth, thus including cancellation of debts as well as positive increases in wealth. Legislation sometimes refers to "standard of living" or "lifestyle", but these are mainly as triggers to begin an investigation, rather than an element of the offence.

- "intentionally"

Article 20 of UNCAC states that illicit enrichment is an offence if it is committed intentionally. The element of intent can be deduced from the facts surrounding the case. For example, in order to receive funds the accused might have to open bank accounts; in order to spend funds he/she might have to actively use bank accounts, sign documents for the acquisition of property, etc. The offence is not a strict liability offence: if the accused can prove ignorance then that is a valid defence. For example, funds might be mistakenly transferred into a person's account without their knowledge.

Issue of presumption of innocence

[2] See: "On the Take – Criminalizing Illicit Enrichment to Fight Corruption", World Bank, 2012.

The issue of whether the introduction of criminalization of illicit enrichment would infringe the presumption that a person is innocent until proven guilty, and if so, whether it is justified to infringe this presumption in exceptional cases, has been debated at length in academic literature. Certain countries, such as USA, have refused to criminalize illicit enrichment because of human rights concerns. In other countries, such as Hong Kong, the courts have upheld that infringement of the principle of the presumption of innocence is justified in the circumstances, while in Argentina court cases have failed to prove that the law infringes the constitution.

In the case Salabiaku vs. France (1988) at the European Court of Human Rights, it was noted that "presumptions of fact or of law operate in every legal system". The court held that "states must confine presumptions 'within reasonable limits which take into account the importance of what is at stake and maintain the rights of the defence.'" This principle, when applied to the issue of illicit enrichment, can justify imposing the burden of proof on the accused, on the grounds that the gravity of the offence justifies this infringement of legal principles, and that the requirement that the accused explain his/her sources of income is reasonable in the circumstances.

There are no known cases of a country revising its constitution in order to adopt legislation on the criminalization of illicit enrichment. It would appear that in all the countries that have adopted such legislation so far, the political consensus at the time of adoption of the legislation has been that constitutional objections are unfounded.

Procedural issues

- Sources of evidence

Evidence to substantiate an illicit enrichment prosecution can come from a variety of sources. Often, the evidence is acquired during the investigation of some other crime (in India this accounts for more than 50% of illicit enrichment cases). In other cases, pro-active investigation specifically on the issue of illicit enrichment can provide evidence through certain tools, such as the analysis of asset and income declarations and through undertaking lifestyle checks, as well as through following up complaints lodged by the public.

- Income and asset disclosures

Information provided in the asset and income disclosures of public officials can be a key source in initiating investigations. However, the usefulness of such information varies. In Argentina, for example, only 4% of illicit enrichment cases start from an analysis of asset and income declarations. The usefulness of such information can depend partly on whether there are administrative or criminal sanctions for failing to file returns, or for providing false, incomplete or misleading information. Another issue is how such declarations are analysed. As a general rule, it is better to analyse a few high-risk cases in depth than to undertake a cursory analysis of all the declarations. The information culled from the latter approach is unlikely to be very useful.

- Lifestyle checks – standard procedures; whistleblower protection

Lifestyle checks are often initiated on the basis of a complaint from an NGO or a member of the public, or as a result of a media report. Thus it is important to have a system that encourages genuine complaints and protects whistleblowers against discrimination. Article 33 of UNCAC states:

Article 33. Protection of reporting persons
Each State Party shall consider incorporating into its domestic legal system appropriate measures to provide protection against any unjustified treatment for any person who reports in good faith and on reasonable grounds to the competent authorities any facts concerning offences established in accordance with this Convention.

To avoid subjective approaches when conducting lifestyle checks, it is best to work on the basis of standard operating procedures. In this case, a detailed list of all the issues to be investigated ensures that the information compiled about an official is as comprehensive as possible.

- Suspicious transaction reports ("STRs")

STRs are a standard method for combating money laundering, under legislation which provides that banks and other organizations have a duty to report to the authorities any suspicious transaction undertaken by a client. However, the evidence provided through STRs can also be useful in an illicit enrichment investigation, where the account owner is a public official.

- Special institutional provisions for investigation and prosecution of illicit enrichment cases

International experience gives a mixed picture on the issue of whether there should be special institutional provisions regarding the right to instigate illicit enrichment cases. In certain countries illicit enrichment is treated like any other crime, in that it falls under the general jurisdiction of the public prosecutor. In other countries the right to investigate and prosecute for illicit enrichment is assigned to a particular body (for example an independent anti-corruption agency). In both cases, the right to initiate an illicit enrichment case may be limited to higher-ranking officers within the prosecution service or the anti-corruption agency. This reflects the sensitive nature of the crime.

The experience of Hong Kong shows that the creation of a new, dedicated agency which in time acquires the necessary investigative powers can have a major positive effect on the success rate of investigating and prosecuting illicit enrichment cases. Firstly, the advantage of establishing a new agency is that one can recruit people who wish to dedicate themselves specifically to uprooting corruption, operating under a like-minded director. Secondly, those people can acquire a high level of expertise as a result of working only on anti-corruption cases. If on the other hand such cases are handled by the police and by the prosecutor's office, there is a danger – by virtue of these being already-established institutions, and because both may historically be subject to political pressure – that the track record of successful investigations will not be so positive. This is true even if there is a separate anti-corruption unit within the prosecutor's office. Argentina is an example of this issue: for some years a separate anti-corruption unit within the prosecutor's office had worked effectively, until the chief prosecutor decided to reduce the powers of that unit, at which point the head of the unit resigned.

If it is decided that all corruption cases, including illicit enrichment cases, should be handled by the police, then of course full powers of investigation will already be available. If, on the other hand, it is decided that a separate body should be established to handle corruption cases, then it is important that that body should have full investigative powers. Otherwise, its ability to gather the necessary information to present a successful case will be severely hindered. Those powers should include the ability to demand the freezing of assets held by suspects and their relatives and associates.

- Inter-agency coordination

Whether or not a specialized agency is established to handle anti-corruption cases, there will always be a need to have effective coordination with other government agencies, such as those which are responsible for analyzing income and asset declarations, as well as the tax and customs authorities, the financial investigations unit, property and other registers. In order for the coordination to be effective, the anti-corruption agency or unit must have the power to demand information from other government departments. In Singapore, for example, the anti-corruption body was quite weak when established in 1952, and it was only in 1959, when it acquired additional investigative powers under revised legislation, that it was able to work more effectively.

Conclusions concerning international experience

Most of the countries that have so far adopted illicit enrichment legislation are developing countries in Asia, Africa and Central and South America. None of the developed countries in Western Europe and

North America have adopted such measures – but it can be argued that those countries do not need to adopt such legislation since they are generally perceived to have low levels of corruption.

Not all countries that have adopted illicit enrichment legislation have done so successfully. In some cases corruption has not decreased as a result. As can be seen from the analysis above, the process of establishing and implementing illicit enrichment legislation is complex. Success depends on a range of factors, including:

- The quality of the legislation
- The institutional arrangements for investigating and prosecuting offences, including:
    - The comprehensiveness and integrity of the system of asset and income declarations
    - The powers of the investigative agency
    - The quality of staff of the investigative agency
    - The independence of the investigative agency
    - The information flows between different state agencies

Officials in Hong Kong, Argentina, India and Pakistan believe that criminalization of illicit enrichment is a useful tool in the fight against corruption. The experience of Hong Kong, in particular, shows that if mechanisms and resources are available, then prosecutions for illicit enrichment can have a high success rate. Within the former Soviet Union and within Eastern Europe, useful lessons can be learnt from countries such as Macedonia, Lithuania, Romania and Moldova, which have enacted legislation on illicit enrichment or similar provisions. Not all those countries have been successful in the fight against corruption. Moldova, for example, has been criticized as failing to implement legislation.

However, an analysis of international indicators shows that some countries have improved their anti-corruption rating. Transparency International's Corruption Perception Index is one of the best-known rating systems, and the results of some countries are set out below:

Country	**Year of adoption of illicit enrichment (or similar) legislation**	**TI CPI average rating prior to adoption**	**TI CPI average rating following adoption**
Lithuania	2010	4.75	5.3
Chile	1999	6.9	7.22
China	1997	2.3	3.5

Another internationally renowned rating system is the World Bank's six Worldwide Governance Indicators, which are evaluated every 5 years (2002, 2007 & 2012). One of the indicators is "control of corruption". A number of countries with illicit enrichment or similar laws exhibit a positive tendency in relation to this indicator, as shown in the table below:

	"Control of corruption" Worldwide Governance Indicator (World Bank)		
Country	**2002**	**2007**	**2012**
Argentina	37	41	39
Chile	92	90	91
China	34	33	39
Hong Kong	93	94	93
Lithuania	60	58	66
Macedonia	24	45	59
Malaysia	62	67	66
Rwanda	39	58	73

By way of reference, Armenia's rating for the three years is 34, 29 and 37 respectively.

3. The possibility of criminalizing illicit enrichment in Armenia

Current Armenian legislation

Currently, the RA does not have legislation on the issue of illicit enrichment. Despite acceding to the UN Convention against Corruption, the Republic of Armenia has not criminalized the offence described in article 20: illicit enrichment. In other words, it has not accepted the undertaking to criminalise a significant increase in the assets of an official which exceeds his/her legitimate income and which the official cannot reasonably explain.

Thus, the Criminal Code (law no. 528 adopted 18th April 2003 and which came into force on August 1st 2003) does not provide for the criminal offence of illicit enrichment.

However, as has been noted at the start of this paper, the government in its 2014-2017 programme has undertaken to draft and implement measures to reveal and neutralize 'illicit enrichment', conflicts of interest, incompatible activities and other restrictions, as well as effective institutions to ensure the operation of measures in the event of breaches of ethics rules.

Armenia does have a law[3] "On combating money laundering and the financing of terrorism". The relevant provision which criminalises money laundering is in Article 190(1) of the Criminal Code, which criminalizes the "conversion or transfer of property obtained in a criminal way". Anti-money laundering legislation is similar to legislation criminalizing illicit enrichment in that in both cases the legislation focuses on evidence of the proceeds, and not on the underlying criminal activity. It is possible to convict a person of money laundering without convicting them of an associated criminal offence.

Proposed reforms – outline

Taking into account international best practice and international conventions, as well as taking into account the peculiarities of Armenia's legal system, it is proposed that:

- Amendments should be made to the draft concept paper on constitutional reforms to provide for the principle of "presumption of guilt" in the case of illicit enrichment
- Illicit enrichment should be made a criminal offence by adopting an amendment to the Criminal Code
- After criminalizing illicit enrichment, on the basis of the Constitution, the Law "On legal acts" and the principle that laws which introduce new criminal penalties do not have retroactive application, it should be defined by law that criminal liability for illicit enrichment applies only to those acts committed after the law has entered into force
- The legislative provision should enable assets that are in the possession of relatives and associates to be taken into account
- The penalties should be a combination of imprisonment, confiscation of the illicitly acquired assets and/or a fine, as well as administrative penalties (dismissal from office and temporary or permanent bar from being appointed or elected to public office
- It will be necessary to adopt measures to limit cash transactions in Armenia
- Institutional arrangements should be made so that a single body is engaged in the investigation and prosecution of illicit enrichment cases

Institutional arrangements

[3] The Law "On combating money laundering and the financing of terrorism" was adopted on 26th May 2008 and came into force on 31st August 2008

As regards the institutional arrangements in connection with the criminalization of illicit enrichment, one of the following options should be implemented:

1. Establishment of an independent anti-corruption agency which, based on successful models developed in countries such as Hong Kong and Singapore, would have three main functions: a) investigation of corruption cases, including illicit enrichment, b) development, coordination and implementation of anti-corruption strategies and reforms, and c) education programmes to improve understanding and awareness of corruption issues among the population. The concept of an independent anti-corruption agency (hereinafter "agency") has been developed in detail in a separate paper. Briefly, the key aspects of the agency would be as follows:
    - The agency would be established by law or, possibly, under the Constitution
    - The agency would enjoy independence from political pressure, would have an annual budget, approved by the National Assembly, to which it would report on an annual basis.
    - The agency would be headed by a director and would have sufficient, highly paid staff to implement its functions.
    - In order to investigate corruption cases, the agency would be endowed with powers similar to the police (based on the Indonesian model), and would have a specialized department, staffed with professionals selected on the basis of their ability, dedication and integrity
2. Transformation of the Ethics Commission for High-Ranking Public Officials ("Ethics Commission") into an independent, multi-purpose anti-corruption agency. The aim would be to create an agency similar to the one outlined in (1) above in terms of status, structure and powers. These modifications could be made gradually or in a single, complex reform measure
3. Investigation of illicit enrichment cases to be undertaken by the Special Investigation Service or by an illicit enrichment cases investigation department in the newly-established United Investigation Committee

Implementation steps

The following steps would be necessary to implement measures criminalizing illicit enrichment

1. Undertake the measures outlined above ("proposed reforms – outline")
2. Widen the range of officials and public servants required to submit asset and income declarations
3. Widen the range of persons related to officials and public servants required to submit asset and income declarations
4. Establish a department in the Ministry of Finance which will coordinate, analyse and collate the income and asset declarations and other information submitted by officials
5. Institutional measures should be adopted so that investigation and prosecution of illicit enrichment cases are carried out by a single body
6. Legislation on institutional provisions: this would depend on the choice of institutional model. If, for example, an independent agency is to be established, then this should be under a separate law which sets out its rights and responsibilities.
7. Development of standard operating procedures for the department engaged in investigation of illicit enrichment cases.

Currently the Ministry of Justice has circulated a draft structure of the 2014-2018 anti-corruption strategy:

- *In Chapter 2 ("Effective fight against corruption") new sections should be added with the following headings:"Anti-corruption information and education" and "Criminalisation of corruption and law enforcement action". In the section entitled "Criminalisation of corruption*

and law enforcement action" it will be necessary to include provision for criminalization of illicit enrichment.

- *In Chapter 2 ("Effective fight against corruption"), section 2.2 ("Perfection of legislation and legislative reforms"), a provision should be included which requires the Anti-corruption Council to continue joint work with civil society organizations which are active in the anti-corruption sector, including the EU-financed "Multi-faceted anti-corruption promotion" project implementers ("Armenian Young Lawyers Association" NGO and its partner "Freedom of Information Centre of Armenia" NGO). Specifically, the parties should work on the basis of this analysis ("the possibility of criminalizing illicit enrichment in Armenia") and by July 2016 should draft and officially circulate a concept paper on "Criminalisation of illicit enrichment in Armenia".*

4. References:

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"Specialised Anti-Corruption Institutions – Review of Models", OECD, 2008

"Anti-Money Laundering and Combating the Financing of Terrorism – Armenia" Moneyval Mutual Evaluation Report, September 2009

Annex 1

Annex 1 sets out the countries subject to review in this paper, the dates when they adopted illicit enrichment legislation and details of the penalties foreseen for a breach of that criminal offence

Country or territory	**Date of legislation**	**Penalty for infringement**	
		Prison sentence	**Fine and/or confiscation of gains**
Algeria	2006	2-10 years	200k-1m Dinars
Antigua and Barbuda	2004	Up to 5 years	100k East Caribbean $ plus repayment of gains
Argentina	1964	2-6 years	50-100% of gain
Bangladesh	2004	3-10 years	Confiscation
Bolivia	2010	5-10 years	200-500 Dias plus confiscation
Brunei	1982	7 years	30K Brunei $ and repayment of gains
Chile	1999	None	Fine equal to the gains
China	1997	Up to 5 years	Confiscation of gains
Hong Kong	1971	3-10 years	100k – 1m HK$ plus repayment of gains
Colombia	2004	8-15 years	Fine twice amount of gains
Costa Rica	2004	3-6 years	
Cuba	1987	2-5 years or a fine	Fine of 300-1000 pesos plus confiscation of gains
Ecuador	1987	2-5 years	Fine twice amount of gains
Egypt	1975	Term not specified	Fine equal to amount of gains
El Salvador		3-10 years	
Ethiopia	2004	Up to 5 years	Amount not specified
Gabon	2003	2-6 years	2m-20m CFA francs
Guyana	1998	6 months – 3 years	Fine equal to 1.5 times amount of gains
India	1988	1-7 years	Amount not specified
Jamaica	2003	1-5 years	Up to 5m Jamaica $
Lesotho	1999	5-10 years	5k-10k maloti
Macedonia	1996	1-8 years	Amount of fine not specified; confiscation of gains
Madagascar	2004	6 months – 5 years	50m-200m Malagasy francs
Malawi	1995	12 years	
Malaysia	1997	14 days – 20 years	Five times value of gains
Mexico	2003	3 months – 14 years	Fine of up to 500 times daily minimum wage

Nepal	2009	Up to 2 years	Fine equal to value of gains, plus confiscation of gains
Nicaragua	2008	3-6 years	
Pakistan	1999	Up to 7 years	Fine (amount not specified) plus confiscation of gains
Panama	2008	3-12 years	
Peru	1991	5-18 years	
Rwanda	2003	2-5 years	2-10 times value of gains
Senegal	1981	5-10 years	1-2 times value of gains
Sierra Leone	2008	At least 3 years	Not less than 30m leones
Uganda	2009	Up to 10 years	Up to 240 currency points
Venezuela		3-10 years	
West Bank and Gaza	2005	Term not specified	Fine equal to value of gains, plus confiscation of gains