AUA
American University of Armenia

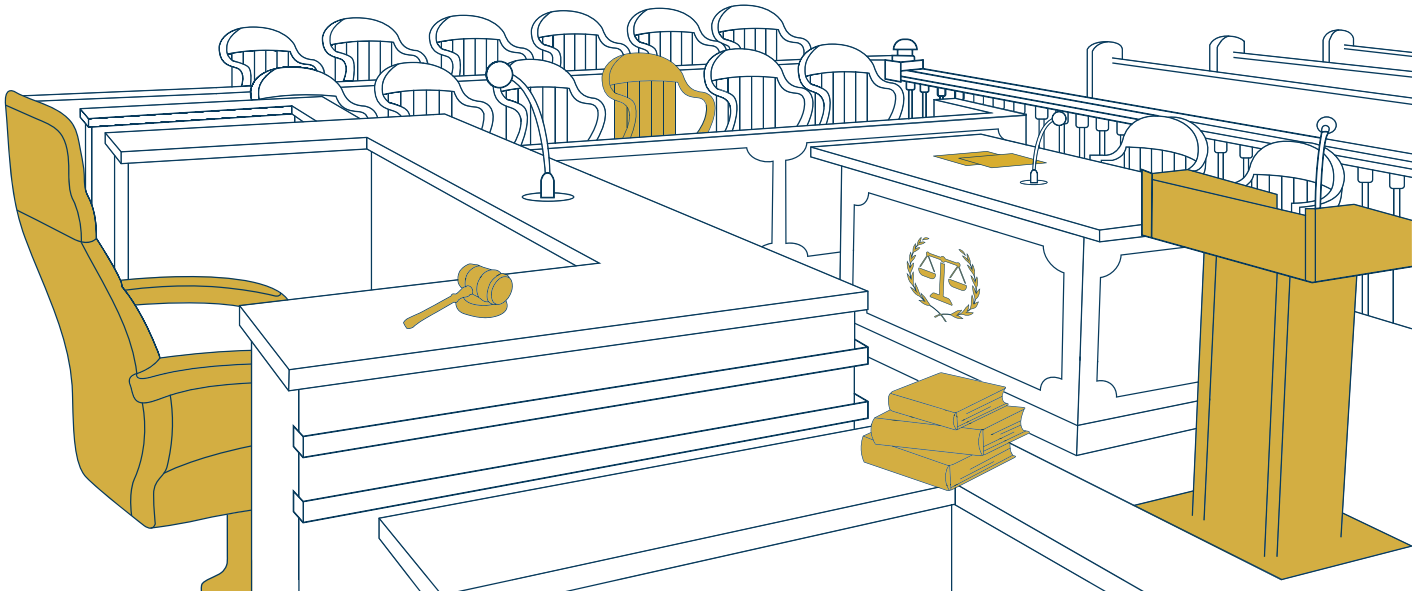
AFEYAN
FOUNDATION

INTERNATIONAL AND COMPARATIVE LAW CENTER - ARMENIA

ANTI-CORRUPTION COURT OF THE REPUBLIC OF ARMENIA

OPERATIONAL PROBLEMS AND WAYS TO OVERCOME THEM

RESEARCH REPORT



Anti-Corruption Court of the Republic of Armenia: Functional Problems and Ways to Overcome Them

Research Report

Author group:

Siranush Sahakyan

Meri Batikyan

Avetik Mejlumyan

Report design:

Astghik Pirumyan

The report was prepared within the framework of the "Justice Barometer: Measuring judicial response to corruption" project in 2024.

The project was implemented by the Legal Resource Center of the American University of Armenia, in collaboration with the "Center for International and Comparative Law" NGO, with the support of the "Noubar and Anna Afeyan Foundation".

Table of Contents

Introduction

Evidence-based justice policy is crucial for the effective management of the judicial system and the development of judicial leadership. Decision-making should be grounded in reliable facts that are as measurable and verifiable as possible, collected through trustworthy methods. This study on the activities of the Anti-Corruption Court of the Republic of Armenia aims to address potential gaps in evidence-based justice policy by providing new perspectives on problem analysis and additional data.

The powers and public concerns of the Supreme Judicial Council

In Armenia, the Supreme Judicial Council (SJC) serves as a guarantor of the unhindered exercise of judicial authority. Its mission is to ensure the independence of courts and judges, as well as the uninterrupted administration of justice.

Although the SJC has broad functions, some of its decisions occasionally raise concerns among both the public and the professional community regarding its impartiality, political neutrality, and the justification of its rulings.

One of the main reasons for this lack of trust is the insufficiently evidence-based nature of certain decisions. The factors shaping judicial policy are not always visible or comprehensible to the public. For instance, it remains unclear why some judges face disciplinary actions, including termination of authority, for violating the right to a trial within a reasonable time, while others do not.

The problem of limitations of research methods

There are two main methods for public observation and indirect oversight of judicial activities: monitoring and the analysis of judicial statistics and other sources.

The first method is widely used by human rights organizations in Armenia, which publish reports based on their findings. The study of judicial sources and statistics is less common, partly because data is not always accessible or comprehensive.

Challenges in the implementation of the new criminal and criminal procedure codes of the Republic of Armenia

On July 1, 2022, Armenia's new Criminal Code came into force, fundamentally revising the country's penal policy. While the previous Criminal Code emphasized imprisonment as the primary form of punishment, the new Code seeks to minimize incarceration by introducing alternative sanctions. For individuals committing minor offenses for the first time, imprisonment is no longer applicable.

The reform also includes the criminalization and decriminalization of certain acts. Unlike the

previous Code, which was based solely on the "act-based concept" of liability, the new legislation places significant emphasis on the perpetrator's characteristics - who committed the crime and their specific attributes. In assessing criminal acts, the focus is now on more measurable and concrete criteria rather than abstract ones.

In June 2021, Armenia adopted a new Criminal Procedure Code, introducing numerous innovations and comprehensive regulations. These reforms aim to address procedural issues accumulated in the field of criminal justice, enhance the quality of investigations into alleged crimes, and ensure the more effective implementation of criminal proceedings while strengthening the protection of individual rights and freedoms.

From the perspective of this study, the following innovations in the Code are of particular interest:

- The court has been granted greater procedural autonomy, allowing it to act independently of the parties' positions and intervene in or guide the evidentiary process when required in the interest of justice.
- New mechanisms for the review of judicial decisions have been introduced, while the effectiveness of appellate, cassation, special, and extraordinary review procedures has been enhanced through improved legal regulations.

Concerns about the activities of the RA Anti-Corruption Court

In April 2021, the National Assembly of Armenia (NA) passed a legislative package establishing the Anti-Corruption Court, introducing amendments to the "Judicial Code" and other laws. This specialized court is tasked with handling cases related to corruption-related crimes (criminal cases) and the confiscation of illicit assets (civil cases). The justification for the court's creation stated that it aimed to ensure specialized adjudication of corruption cases, thereby enhancing the effectiveness of corruption-related trials. However, the establishment and operation of this court have not been universally perceived as positive. Some legal experts question the necessity of a separate specialized court, arguing that corruption-related cases, which now fall under the jurisdiction of the Anti-Corruption Court, were already being properly examined by judges before its creation and do not possess any unique characteristics requiring a separate judicial body. It remains unclear why corruption offenses warrant special treatment while crimes such as murder or theft do not.

In July - August 2022, judges responsible for handling corruption cases were appointed, and the court officially began its operations. As of November 2024, the specialized court system comprises 16 judges in the first-instance Anti-Corruption Court, 12 judges in the Anti-Corruption Court of Appeal, and 10 judges in the Anti-Corruption Chamber of the Court of Cassation.

Although the court's establishment was justified by the intention to recruit experienced professionals - including sitting judges, former judges, and legal scholars - its actual composition tells a different story. Among the 16 first-instance Anti-Corruption Court judges, only one had begun their judicial career relatively earlier, in 2020. The remaining 15 judges have just one or two years of professional experience, meaning they started their judicial careers directly within the Anti-Corruption Court.

The **necessity of this study** is driven by the aforementioned challenges and concerns.

- There is a need to guide the governance of Armenia's justice sector with reliable and credible data. On one hand, such data can serve as a foundation for well-grounded decisions by the Supreme Judicial Council (SJC). On the other hand, making this information accessible to the public and professional community will render the SJC's policies more understandable and predictable. The open data generated and continuously updated through this research will create a sufficient level of transparency for all stakeholders, including decision-makers, courts and judges, lawyers, experts, and the broader public. Equally accessible data will have a restraining and impartiality-enhancing effect on the SJC and other governance bodies. Moreover, this data will be instrumental in decisions regarding judicial leadership, including the encouragement and career advancement of judges.
- There is a need to develop new tools for data collection, processing, analysis, and publication. Currently, the primary source of data is the "Datalex" judicial information system. It allows for searching court cases, scheduled hearings, decisions from the European Court of Human Rights (ECHR), and precedent decisions from the Supreme Court of Armenia. The system also provides the number of court cases according to criminal code articles, regions, and time periods. However, aside from these limited statistical indicators, obtaining statistics based on other criteria is impossible from Datalex. Therefore, there is a need to develop an innovative system for data collection and processing that will allow the generation of data with various and diverse indicators.
- There is a need to assess the impact of the recently enacted new Criminal Code and Criminal Procedure Code of Armenia on the quality of criminal justice and punishment policy. The conceptual changes in these codes are significant, as they introduce new approaches and principles for both the conduct of proceedings and the imposition of punishments, including the introduction of new forms of punishment. Therefore, it is crucial to understand how the new codes are being applied and what gaps exist in this process.

- Finally, a new body has been established within the judicial system of Armenia - the Anti-Corruption Court, a first of its kind in the country's history. Considering the concerns raised by experts regarding the necessity and effectiveness of having a specialized court, there is a need to assess its functioning.

Identifying potential risks during the early stages of the court's operation (approximately two years of activity) will allow for the implementation of preventive measures.

The objectives and outcomes of the study

The main **objectives** of the study were:

1. To assess the performance of the judicial system in combating corruption through the analysis of judicial decisions in criminal and civil cases of the Anti-Corruption Court of Armenia.
2. To propose measures aimed at implementing evidence-based policy in the justice sector to address the identified issues.

The **issues** of the study were:

1. To identify common gaps in the quality of judicial decisions.
2. To examine the patterns and issues related to sentencing policies and damage restitution, with an emphasis on the issue of consistency in sentencing.
3. To analyze the challenges associated with the implementation of the new criminal procedure code.
4. To describe the practice of adhering to reasonable timeframes for case hearings and the potential challenges.
5. To uncover issues and patterns regarding the application and interpretation of precedents (both from the European Court of Human Rights (ECHR) and Armenian judicial bodies) by the court.
6. To develop recommendations aimed at:
   - Improving the quality of judicial decisions,
   - Promoting the qualified and well-founded application of judicial precedents,
   - Ensuring the effectiveness and quality of court/judge operations,
   - Enhancing sentencing policies and ensuring consistency in sentencing,
   - Ensuring the effective implementation of the new criminal procedure code.

As a **result** of the study:

1. A comprehensive data collection has been conducted (data sets) covering 97 criminal and 87 civil cases.

2. 12 interviews were held with experts in the field, including lawyers, judges, prosecutors, and journalists.

3. A mapping and study of media publications regarding the anti-corruption court was carried out.

4. Based on the analysis of theoretical literature, court rulings, expert interviews, and other sources, this research report has been prepared, which:
    - The research presents a unique methodology (transforming the qualitative content of court rulings into quantitative data), which can be applied for large-scale studies of court rulings in both Armenia and other countries.
    - An analysis has been conducted on Armenia's penal policy regarding corruption-related crimes, the policy on the confiscation of illicit assets, and the peculiarities of civil case examination.
    - An analysis of Armenia's anti-corruption bodies and the functions of the Anti-Corruption Court has been conducted, along with a review of the legal framework behind the formation and operation of the Anti-Corruption Court.
    - Rich quantitative data concerning both civil and criminal cases have been presented and analyzed.
    - The results of the qualitative study of court rulings have been presented and analyzed.
    - Recommendations have been developed for decision-makers in the field of sectoral policy.

5. The Justice Barometer website operates, where:
    - A wealth of quantitative data on civil and criminal cases, presented through charts and visual materials
    - Online tools that allow users to generate the quantitative data they are interested in
    - AI-powered tools enabling users to analyze judicial case patterns, trends, and data
    - Resources on the Anti-Corruption Court’s activities, including research reports, publications, and datasets
    - A collection of media publications related to the Anti-Corruption Court’s work
    - The research report available for download

The methodology of the study

Theoretical literature, research, and academic articles related to judicial justice are numerous. They discuss justice from almost all perspectives, addressing its legality and impartiality, effectiveness and transparency, restorative functions, crime prevention, and other issues. Despite the variety of approaches and criteria for examining these problems, the most commonly used methods are primarily the following:

- Analysis of secondary sources (mainly theoretical, academic works),
- Continuous monitoring of court activities,
- Research using interdisciplinary methods – public opinion surveys, expert interviews, focus groups, etc.

The limitation of the mentioned methods is that they assess the quality of justice mainly by monitoring the adherence to procedures. For example, they examine whether the court has guaranteed the defendant's right to defense, whether it has presented and clarified their rights, and whether it has followed the rules of conducting the hearings. However, a crucial final outcome of justice, such as a judicial decision, surprisingly escapes the focus of most studies. Studies concerning the content and quality of judicial decisions are significantly scarce.

The focused study of judicial decisions as texts is a rarely used method in international practice. The team conducting this study is also unaware of any research on judicial decisions that has attempted to standardize their content, making it accessible for quantitative analysis.

In this regard, the methodology of this study is unique and distinctive not only from the perspective of Armenia but also in terms of international experience. The tools for standardizing judicial decisions and the methodology for analysis can be adapted and applied in other countries as well.

One of the main methods of the study was **the coding/standardization of the content (texts) of judicial decisions**, which allowed for their **quantitative analysis** by extracting frequencies and trends.

The content of the judicial decisions was coded and entered into a database according to predetermined categories and questions. The database is a table where the rows represent individual court cases, and the columns represent the developed categories and questions.

In the case of civil case decisions, the number of columns (questions) was approximately 70, while for criminal case decisions, it was around 150. Examples of questions include the duration of the case examination expressed in days, the number of court sessions scheduled, the reference to a European Court of Human Rights (ECHR) precedent, the sentence imposed on the defendant, the amount of damage caused, and so on.

The data was entered using previously developed codes (numerical symbols). There were questions where answers were not fully standardized. For these questions, broader, text-based answers were entered. These non-standardized answers were subjected to content and qualitative analysis. After the data entry and coding were completed, quantitative analysis was performed using the SPSS program and artificial intelligence tools.

Another key method of the study was **the content analysis and evaluation of judicial decisions.** The judicial decisions were analyzed based on two main criteria:

1. **Quality of the judicial decision:** This criterion was further broken down into the following sub-criteria:
   - Compliance with the law and fairness of the decision
   - Persuasiveness of the reasoning
   - Transparency
   - Detailed and structured reasoning
   - Clarity and comprehensibility of the reasoning
   - Clear structure, with correct grammar and punctuation

2. **Application and interpretation of judicial precedents**, assessed through the following sub-criteria:
   Mentioned in the court record.
   - References to precedent decisions of the RA Court of Cassation
   - References to precedent decisions of the ECHR
   - Most commonly used interpretations of precedents

To assess the above-mentioned criteria and sub-criteria, multiple specific indicators and questions were applied. For example, in analyzing the fourth sub-criterion of judicial decision quality (the reasoning of the decision being detailed and structured), the following sub-questions were used (this is not an exhaustive list):

- Did the reasoning of the decision address all the issues raised in the appeal?
- If not, specify which issues were addressed.
- Did the court's response provide a substantive and convincing answer to the questions raised in the appeal?
- Was there a response to the appeal in the case materials?

The auxiliary methods of the study were:

- **Expert interviews** with lawyers, judges, prosecutors, and journalists. A total of 12

interviews were conducted, and their transcripts were compiled and analyzed alongside the data obtained through the aforementioned methods.

- **A content analysis of publicly available online media publications** related to the Anti-Corruption Court was conducted. All online text-based publications concerning the court's activities were mapped. These texts were then analyzed, and the most valuable findings were compared and examined alongside the data obtained through other methods.

The study considered only the judicial acts available in the Datalex system at the time of analysis. Some judicial acts were accessible only on the Court.am website and had not yet been uploaded to Datalex. Since the information available on Court.am regarding court cases was quite limited and often presented in an improper format[1], the research team relied solely on the data available in Datalex. Additionally, using data from a single platform allowed for better process control, minimizing data duplication and potential inconsistencies.

1. For example, the content of judicial acts was primarily presented in separate scanned images (jpeg format), which made it difficult to read and replicate the information.

Chapter 1. The Legal Framework of the Research

1.1 The Penal Policy of the Republic of Armenia Regarding Corruption Crimes

The Penal System and Types of Punishment

Punishment is a state coercion measure that is imposed by a court's verdict on a person found guilty of committing a crime, on behalf of the state, and which is expressed in the deprivation or limitation of that person's rights or freedoms.

The criminal code, which came into force on July 1, 2022 (hereinafter referred to as the criminal code, or the new criminal code), revisited its penal policy with the aim of reducing the number of individuals incarcerated in correctional institutions and more broadly applying alternative sanctions.

Although certain changes have been made to the types of punishments with the adoption of the criminal code, no specific punishments have been distinguished for corruption-related crimes. In these cases, punishments may include the deprivation of honorary or military titles, ranks, classifications, or state awards, the deprivation of the right to hold certain positions or engage in certain activities, and restrictions on military service. However, these punishments are not limited to corruption-related cases alone.

Under the new Criminal Code, the types of punishments have been updated to include restriction of liberty and deportation of a foreign national from the Republic of Armenia. The confiscation of property has been removed as a punishment, and instead of detention, the concept of short-term imprisonment is now used. The calculation method for fines has also been modified. Specifically, under the previous Criminal Code of 2003 (hereinafter referred to as the "old Criminal Code"), fines were calculated based on the minimum wage, whereas under Article 59 of the new Criminal Code, which came into force on July 1, 2022, the calculation is based on an individual's monthly income. Fines as a primary punishment are imposed for minor and medium severity crimes, ranging from five to fifty times the convicted person's monthly income. As an additional punishment, fines can be imposed for serious and particularly serious crimes involving property damage or crimes committed for financial gain, ranging from double to twenty times the convicted person's monthly income. If the convicted person has no income or if determining their income is impossible, or if the calculated income is less than the minimum wage, the fine is calculated based on the minimum wage at the time the crime was committed.

According to Article 56 of the Criminal Code of the Republic of Armenia, the types of punishments are as follows:

1. Deprivation of honorary or military rank, classification, degree, qualification level, or state award.
2. Fine.
3. Community service.
4. Deprivation of the right to hold certain positions or engage in specific activities.
5. Deportation of a foreign national from the territory of the Republic of Armenia.
6. Restriction of military service.
7. Restriction of liberty.
8. Short-term imprisonment.
9. Detention in a disciplinary battalion.
10. Imprisonment.
11. Life imprisonment.

Each subsequent punishment may be imposed if the preceding one does not achieve the objectives of the punishment.

According to Article 57 of the Criminal Code, community service, restriction of freedom, short-term imprisonment, detention in a disciplinary battalion, imprisonment, and life imprisonment are applied only as primary punishments. Deprivation of honorary or military titles, ranks, degrees, qualifications, or state awards, and expulsion of a foreign citizen from the territory of the Republic of Armenia, are applied only as additional punishments. Fines, deprivation of certain rights to hold specific positions or engage in certain activities, and restrictions in military service can be applied both as primary and additional punishments. Only one primary punishment can be imposed for a single crime. A primary punishment may be combined with one or more additional punishments.

Under the new Criminal Code, confiscation of property has been removed from the types of punishment and has been included in the measures of criminal legal influence.

According to the previous Criminal Code, Article 55, confiscation of property was the forcible and gratuitous taking of property, or part of it, owned by the convict, for the ownership of the state. In the current Code, the institution of property confiscation has been defined as a measure of criminal legal influence, alongside security measures. Moreover, Article 121 of the Criminal Code, which came into force on July 1, 2022, stipulates that property directly or indirectly obtained or derived from a crime, income derived from the use of such property, and other benefits, as well as tools and means used or intended for use in the crime, and the object of the crime, are subject to mandatory confiscation by the court, except in cases provided by law.

The imposition of punishment and its objectives, the peculiarities of punitive policy in corruption cases.

The type and severity of the punishment are determined by the nature and extent of the damage caused by the crime, the manner, place, and time of the offense, the motives and objectives behind the crime, the type of intent or negligence, the mitigating and aggravating circumstances of responsibility and punishment, as well as the impact of the imposed punishment on the offender's resocialization and the formation of lawful behavior, and its effect on the living conditions of their family.

According to Article 55 of the Criminal Code of the Republic of Armenia, the purpose of imposing a punishment is to restore social justice, resocialize the punished person, and prevent crimes. The severity of the punishment for corruption depends on the seriousness of the crime committed and its consequences. A punishment involving deprivation of liberty may be imposed if the court justifies that a less severe penalty cannot achieve the objectives of the punishment.

The Criminal Code has expanded the factors to be considered when imposing a punishment. Specifically, Article 61 of the previous Criminal Code mentioned the nature and degree of the crime's danger, the personal characteristics of the offender, as well as mitigating and aggravating circumstances. However, Article 69 of the new Criminal Code, which came into force on July 1, 2022, adds to these considerations the offender's potential for resocialization, the necessity of shaping their law-abiding behavior, and the impact of the punishment on the living conditions of their family.

In general, the penal policy concerning corruption offenses aims to strengthen the level of public trust in state institutions, and it is a key factor in the process of increasing the effectiveness of the country's judicial and legal systems. In recent years, Armenia's penal policy on corruption crimes has significantly focused on mechanisms for the radical prevention, detection, accountability, and enforcement of punishment. Armenia's penal policy in the area of corruption offenses is aimed at ensuring both individual responsibility and systemic changes. The main strategic measure employed is the intensification of penalties, which is directed at combating corruption. Since corruption has been one of the pervasive issues in public life for many years, the tightening of penal mechanisms is intended to prevent the spread of corrupt phenomena while simultaneously ensuring the fight against them. The institutional reforms undertaken within the framework of Armenia's fight against corruption aim to enhance the effectiveness of the penal policy.

The fight against corruption is one of the priorities of the legal system, and a strict punitive approach can be seen as a deterrent mechanism. When implementing such a policy, it is

important not to undermine the cooperation factor, which can contribute to the uncovering of corruption schemes.

Exemption from criminal liability based on genuine repentance is primarily applied when a person has committed the offense for the first time, cooperated with law enforcement agencies, and has compensated the damage caused to the state or community.

On the occasion of the 106th anniversary of the Prosecutor's Office, during a solemn session of the Prosecutor's Collegium, the Prosecutor General of Armenia stated that the Prosecutor's Office has adopted a strict punitive policy in criminal proceedings related to corruption offenses. He mentioned that a motion for exemption from criminal liability based on genuine repentance is, as a rule, rejected if the person who committed the offense has held a military position or has ever committed a corruption crime, or any other high-latency crime, such as receiving bribes or election bribes, money laundering, and so on[2].

The subject of corruption offenses.

The effectiveness of investigating corruption offenses is largely dependent on the clear definition of the subject of the offense.

The new Criminal Code of Armenia includes a separate section that defines the criminal liability of legal entities, which also covers the liability of legal entities for corruption offenses.

The scope of subjects of corruption offenses has been significantly expanded under the new legislation, with the aim of making the state's policy against corruption more effective. The new code establishes liability for acts that were previously not included, as well as clarifies the concept of "public official."

The previous criminal code differentiated between the concepts of "public official" and "public servant," while the new code considers public servants as public officials as well. Within the scope of the new criminal code, the status of employees in the private sector who perform public functions has also been clarified. For instance, individuals authorized to act on behalf of a public administration body, who can be regarded as public officials, are now included.

According to Article 3 of the new Criminal Code, a public official is considered to be an individual who holds the following positions:

2. The Prosecutor's Office has adopted a strict punitive policy regarding criminal proceedings on corruption offenses. – Anna Vardapetyan, https://cutt.ly/XeXZPXmN .

a. a public official is considered to be an individual who is a public servant, holds a public office, or has the authority to act on behalf of the state, a state body, a local government body, or a non-profit organization or institution created by the state or municipality. This individual also carries out functions that create rights, obligations, or responsibilities on behalf of these entities,
b. an individual who holds a position or serves within the public authority sector of another state, whether in the legislative, executive, or judicial branches, either permanently, temporarily, or with special authority. This person also has the power to act on behalf of that institution or carries out functions that create rights, obligations, or responsibilities.
c. an individual who holds a position or performs services permanently, temporarily, or with special authority in an international or supranational public organization or institution, or who has the authority to act on behalf of such organization or institution, or carries out functions that create rights, obligations, or responsibilities on behalf of that organization or institution.
d. a representative of the representative body of an international or supranational organization, or of an entity carrying out similar functions.
e. a person who permanently, temporarily, or with special authority holds a position or performs services in an international court, or has the authority to act on behalf of the court, or performs functions that create rights, duties, or responsibilities on behalf of the court, or a sworn advocate of another state or international court.

At the same time, previously, there were often issues with holding employees from the private sector, such as doctors, professors, and teachers, accountable for corruption-related crimes. The new legal code has clarified this matter: responsibility is now established for accepting or demanding illegal compensation for performing official or professional duties. Specifically, the current legal code penalizes the act of a public service employee, not holding a public position in sectors like education, healthcare, household or population services, who unlawfully receives or demands property, including money, securities, other payment instruments, rights to property, services, or any other advantage, either personally or through an intermediary, for performing their official or professional duties or providing a service.

The abolition of leniency provisions in corruption cases.

One of the recent changes in the Criminal Code of the Republic of Armenia is the tightening of penalties for corruption crimes by abolishing leniency provisions. Previously, the legislator allowed individuals who committed corruption crimes to be exempt from criminal liability if they cooperated with law enforcement agencies. For example, according to Article

312 of the former Criminal Code of Armenia, a person who gave a bribe would be exempt from criminal liability if bribery extortion occurred, and that person voluntarily reported the crime to law enforcement agencies before the crime became known, but no later than three days after the commission of the crime, and assisted in uncovering the crime. Similar leniency provisions were also established for individuals who gave commercial bribes (Article 200), offered illegal remuneration (Article 312.1), or received election bribes (Article 154.2). These individuals would again be exempt from criminal liability if, no later than three days after the crime, they voluntarily reported it to law enforcement and assisted in uncovering the crime.

The new Criminal Code no longer provides for such leniency mechanisms.

The purpose of the leniency provision was to encourage participants in bribery offenses to cooperate in uncovering the crime. However, the provision had several issues. The three-day deadline that was previously in place raised doubts about the effectiveness of this mechanism, as the time frame was too short to allow an individual to reassess their actions and voluntarily report them to law enforcement. As a result, when the crime had not yet been uncovered, but the person wanted to help expose it, they would refrain from reporting it to the authorities due to the expiry of the three-day deadline. In practice, although this mechanism existed, it was ineffective, despite its potential to assist in uncovering crimes.

In 2019, the Ministry of Justice of the Republic of Armenia presented a draft[3] to the public for discussion regarding an amendment to the Criminal Code of Armenia, which proposed the removal of the three-day deadline and allowed a bribe-giver to be exempt from criminal liability if the bribe was extorted or if the individual voluntarily reported the bribery to law enforcement authorities (with the exception of cases where the individual was aware that the crime was already known to law enforcement).

The draft mentioned that a number of countries, including Russia, Moldova, Georgia, Croatia, Bosnia and Herzegovina, Lithuania, Kazakhstan, Kyrgyzstan, Ukraine, Montenegro, Mongolia, Slovenia, Romania, Tajikistan, Uzbekistan, Serbia, and Macedonia, have established norms for exempting bribers from criminal liability without time limitations. In the legislation of these countries, only one condition is required for exemption from liability: active assistance in the disclosure of the crime or the fact of the extortion of bribes.

However, this draft was not adopted, and the new Criminal Code does not include any incentivizing provisions for such cases.

Now, in bribery cases, one can only be exempted from criminal liability through the application of the institutions established in the general part of the Criminal Code.

3. The law on amendments to the Criminal Code of the Republic of Armenia, published on October 9, 2019, https://cutt.ly/SeXXofRT .

In essence, the legislator has tightened its punitive policy for corruption offenses with the new amendments. The complete removal of incentive norms is ineffective, as it deprives the state of important tools for uncovering corruption crimes, which could contribute to exposing criminal networks and the process of holding individuals accountable.

It should be noted that currently, instead of the incentive norm, the institution of effective repentance is applied. However, we believe that the institution of effective repentance is not a substitute for the incentive norm that allows for exemption from criminal liability in bribery cases.

1.2 The Policy of Forfeiture of Illegally Acquired Property and Its Issues in Armenia[4]

The law on the "Forfeiture of Illegally Acquired Property" came into effect on May 23, 2020. According to this law, property or a portion of property, as well as anything obtained from the use of such property (results, products, income), the acquisition of which cannot be justified by legal income, is considered illegal property, regardless of whether it was acquired before or after the law came into effect.

The policy of forfeiture of illegally acquired property is based on the approach that every official and their affiliated persons must be accountable for the origin of their assets. This policy aims to uncover property obtained from corrupt sources and transfer it to the state through judicial proceedings.

The constitutionality of the "Law on the Confiscation of Property of Illicit Origin" is currently being challenged in the Constitutional Court of Armenia based on a petition submitted in November 2021 by at least one-fifth of the total number of National Assembly deputies[5].

At the same time, the Constitutional Court of Armenia suspended the proceedings of the case and, on July 8, 2022, adopted a procedural decision to apply to the Venice Commission (the Council of Europe's advisory body composed of independent experts in constitutional law) for an amicus curiae opinion on the following four issues related to the "Law on the Confiscation of Illegally Acquired Property" of Armenia[6].

1. Is the presumption of illegal origin of property, as stipulated in Article 22 of the Law on Confiscation of Property of Illicit Origin, compatible with the European applicable standards for the protection of the right to peacefully enjoy one's property in the context of the confiscation of property without a criminal conviction?
2. From the perspective of comparative constitutional law, what is the best practice among the member states of the European Commission for Democracy through Law (Venice Commission) regarding the fair distribution of the burden of proof and the standards of proof in non-conviction-based confiscation proceedings, aimed at protecting the right to a fair trial and the right to peacefully enjoy one's property?
3. Considering that the Law on Confiscation of Illegally Acquired Property came into force on May 23, 2020, is the procedural obligation to prove the legality of property acquired before that date compatible with potential European standards on the prohibition of retroactive application of the law?

---

4. Other issues related to the "Law on the Confiscation of Illegally Acquired Property" are also presented in Chapter Three.

5. As of now, the Constitutional Court has not yet accepted for proceedings the petition submitted by opposition factions back in November, https://cutt.ly/NeXXpEK6 .

6. The procedural decision of the Constitutional Court of Armenia dated July 8, 2022, on applying to the Venice Commission https://cutt.ly/6eXXp5pB .

4. Is the absence of a maximum time limit for initiating and conducting confiscation proceedings of illegally acquired property after the entry into legal force of a guilty verdict, as stipulated by the Law on Confiscation of Illegally Acquired Property, compatible with European standards for the protection of the right to property?

On December 19, 2022, the Venice Commission presented its opinion[7], summarizing international and European relevant standards and best practices. In its advisory opinion, the Venice Commission noted that while it summarizes the existing best practices, the Constitutional Court must determine whether the law is in compliance with the Constitution of the Republic of Armenia. The Commission indicated that international and European standards allow the confiscation of illegally acquired property to be viewed as an effective tool in the fight against state corruption and a preventive measure against the acquisition of illegal property.

Regarding the first and second questions, the Venice Commission emphasized the importance of protecting the public interest, which may justify the application of the presumption of illicit origin of property. The competent authority must prove that an individual's lawful income is not commensurate with their assets. Only after this can the burden of proof shift to the property owner. At the same time, the Commission stressed that this mechanism should be applied within reasonable limits and accompanied by effective procedural safeguards. In particular, the property owner must be given a genuine opportunity to challenge the presumption of illicit origin of their assets.

Regarding the third and fourth questions, the Venice Commission stated that the retroactive application of the law can generally be considered proportionate and compatible with the Armenian Constitution, which guarantees the protection of property when its acquisition is lawful. However, the obligation to provide an explanation regarding the origin of property must be reasonable. The timeframe for asset confiscation should also be reasonable and uniformly applicable in all cases, eliminating discretionary powers. It is widely accepted that the fight against corruption is necessary not only for the future but also to address past instances of illicitly acquired property. In this context, it may be appropriate to establish specific time limits. The Commission noted that the retroactive application of the law dating back to 1991 could be problematic, as the law allows for exceptions to the prohibition of retroactivity. Nevertheless, it may be applicable when the competent authority has reasonable suspicion regarding the illicit origin of property and relevant evidence of its acquisition is preserved. The Commission also emphasized that this timeframe appears excessively long, creating challenges not only for practical implementation but also in terms of ensuring legal safeguards.

7. The Venice Commission's Advisory Opinion of December 19, 2022 https://cutt.ly/NeXXaP1g .

It is worth noting that after receiving the Venice Commission's advisory opinion, the Constitutional Court of Armenia, on July 7, 2023, issued another procedural decision[8] to suspend the proceedings and this time requested clarifications from the Prosecutor General's Office by submitting 21 questions. Specifically, inquiries were made regarding, for example, the methodology used to assess an individual's income that has not been subject to taxation, the approach for evaluating the legality of an individual's assets—including cash holdings—acquired before the investigation period, and the interpretation of certain provisions of the Law on Confiscation of Illegally Acquired Property, among other issues. According to the Prosecutor General's Office, responses to these inquiries were provided in September 2023[9].

The European Court of Human Rights' case law on the confiscation of illegally acquired property.

It should be noted that the legal justifications and application standards of Bulgaria's 2005 Law on the Confiscation of Criminally Acquired Assets, which is similar to Armenia's Law on the Confiscation of Illegally Acquired Property, have been reviewed by the European Court of Human Rights (ECtHR). This law was adopted by Parliament in February 2005 and came into force in March of the same year. However, in 2012, it was replaced by a new law - the Law on the Confiscation of Illegally Acquired Assets - while the 2005 law continued to apply to pending cases under review.

The primary objective of the law was to reduce opportunities for criminally acquired income and to prevent new offenses. The explanatory memorandum stated that the law was designed as a preventive measure to combat money laundering and similar crimes in cases where assets were presumed to have a criminal origin but could not be fully or partially confiscated through the Criminal Code. According to the law, if a person could not justify the lawful origin of their assets, it could be reasonably presumed that they were proceeds of crime, allowing the state to confiscate such assets. The confiscation proceedings could also be initiated for assets acquired before the 2005 law came into force, with the state's right to confiscate such assets expiring twenty-five years after their acquisition.

Since 2011, applications have been submitted to the European Court of Human Rights (ECtHR) concerning this law. The ECtHR examined 7 applications involving 14

8. The procedural decision of the Constitutional Court of the Republic of Armenia on July 7, 2023, on the appeal to the Prosecutor General's Office of the Republic of Armenia, https://cutt.ly/aeXXsmyX .

9. The Constitutional Court is in no hurry to examine the constitutionality of the Law "On Confiscation of Property of Illegal Origin", https://cutt.ly/3eXXdrAS .

applicants[10] together, addressing the issue of the law's proportionality. The first ruling, Todorov and Others v. Bulgaria, was issued in 2021. This case was the first in which the ECtHR thoroughly analyzed the proportionality of a law on the confiscation of assets acquired through unlawful means and its compatibility with human rights standards. Subsequently, in 2023, the ECtHR delivered another judgment[11] on this law in Yordanov and Others v. Bulgaria, frequently referencing Todorov and Others v. Bulgaria. Given that Todorov and Others was the first ECtHR ruling on this law and served as a precedent for future cases, a summary of its key facts and the application of ECtHR standards in this case is provided below. The ECtHR also addressed the confiscation of assets in criminal, civil, and administrative proceedings[12].

Todorov and Others v. Bulgaria[13]

In the case brought before the ECtHR, Todorov and the other applicants had significant assets (real estate, businesses, vehicles, and cash) confiscated under the provisions of Bulgaria's 2005 law on the forfeiture of assets acquired through criminal activity. Bulgarian courts justified their decisions by arguing that the applicants' expenditures during the relevant period significantly exceeded their lawful income. Consequently, it was deemed reasonable to assume that part of their assets had been financed through illicit means. The applicants contended that there was insufficient evidence to establish a direct link between their assets and any criminal activity. However, Bulgarian courts largely dismissed these arguments, and higher courts upheld the rulings.

The Bulgarian courts also stated that under the provisions of the 2005 law, proving a causal link was not mandatory, as the law established a presumption that all assets with an unknown lawful source were considered to have been acquired through criminal means.

The ECHR examined the provisions of the law from the perspective of proportionality standards.

Principles of the proportionality standard

The proportionality standard in ECHR jurisprudence is based on the following key principles:

10. Todorov and Others v. Bulgaria, 50705/11, Gaich v. Bulgaria, 11340/12, Barov v. Bulgaria, 26221/12, Zhekovi v. Bulgaria, 71694/12, Rusev v. Bulgaria, 44845/15, Katsarov v. Bulgaria, 17238/16, Dimitrov v. Bulgaria, 63214/16

11. Yordanov and Others v. Bulgaria, Applications nos. 265/17 and 26473/18

12. Article 1 of Protocol No. 1 to the European Convention on Human Rights, concerning confiscation of property, https://cutt.ly/weVlv8Hp

13. More details are available here: "Brief overview of the judgment of the ECHR of 13.07.2021 in the case of Todorov and Others v. Bulgaria", https://cutt.ly/deXXgrKS

Legitimate aim

The interference must serve a specific legitimate aim necessary for the protection of public order, morality, and the rule of law.

Proportionate means

The means of interference must be proportionate to the aim pursued by the law. This principle includes the requirement that the interference must not be excessive and should represent the "least intrusive" means necessary to achieve the objective.

Balance between public and private interests

During the interference, both public and private interests must be taken into account, ensuring a balance between the two. The court pays particular attention to ensuring that state interference does not unduly burden an individual's rights.

The nature of crimes regulated by law

The 2005 law was applied to crimes that did not always result in financial gain and were associated with particularly serious offenses, such as connections to criminal organizations, drug trafficking, corruption in public service, or money laundering. However, the law also allowed investigations to be initiated for smaller and less severe offenses.

The Court found that not all offenses listed in the 2005 law could reasonably be presumed to necessarily result in the generation of income.

Retroactive effect of the law

The Court criticized the long-term retroactive application of the law, which allowed confiscation proceedings to be initiated even in cases where the allegedly unlawful act had occurred before the law came into force. As a result, the broad scope and extended retroactive application of the 2005 law significantly complicated the applicants' ability to prove the lawful origin of their income. Furthermore, the Court criticized the fact that the state had the authority to confiscate assets acquired up to twenty-five years before the initiation of the confiscation proceedings.

Burden of proof

The Court noted that, given the evident difficulties faced by applicants in proving the origin of their assets, domestic legislation placed the burden of proving their lawful origin entirely on them. The Court acknowledged that legal systems often recognize presumptions established by law or fact and that the Convention does not, in principle, prohibit their use, provided they are accompanied by effective judicial safeguards. However, the Court also pointed out that applicants might encounter significant challenges in fulfilling their burden of proof due to the lengthy time frames involved in confiscation proceedings and other factors described in the case.

Cause and effect relationship

The Court stated that a causal link must be established between the assets subject to confiscation and the criminal activity. The ECHR emphasized that a key factor is whether national authorities have provided at least some specific details substantiating the origin of the assets subject to confiscation based on the established fact of a crime, within the context of each particular case.

1.3 Features of Civil Case Examination in the Anti-Corruption Court

According to Article 24 of the "Judicial Code of the Republic of Armenia" constitutional law, the Anti-Corruption Civil Court examines, among others, civil cases initiated by the prosecutor regarding the protection of the state's property and non-property interests in accordance with civil procedural law, as well as civil cases concerning the confiscation of property based on the "Confiscation of Illegally Obtained Property" law.

The Prosecutor's Office's authority to initiate a lawsuit for the protection of state (municipal) interests.

According to Article 176 of the Constitution of Armenia, the Prosecutor's Office may file a lawsuit for the protection of state interests in exceptional cases and in accordance with the procedure established by law.

According to Article 29 of the Law of the Republic of Armenia on the Prosecutor's Office, the prosecutor files a lawsuit for the protection of state (municipal) interests in exceptional cases when, while exercising their powers, they discover that a state or local self-government body, which is entrusted with filing lawsuits related to the protection of state (municipal) interests, has failed to file such a lawsuit within a reasonable time after receiving a proposal from the prosecutor, or when a violation of state (municipal) interests has occurred regarding issues for which filing a lawsuit is not reserved by law for any state or local self-government body, or based on the results of an investigation conducted under the Law of the Republic of Armenia on the Confiscation of Property of Illegal Origin, there are cases of filing lawsuits for the confiscation of property.

A systemic analysis of the above norms shows that the powers of the Prosecutor’s Office, as defined by the Constitution of Armenia, also include the authority to file a lawsuit for the protection of state interests, which can only be exercised in the exceptional cases outlined in the Law of the Republic of Armenia on the Prosecutor's Office, as described above.

This same authority was also provided in the 1995 edition of the Constitution, as well as in the amendments made to the Constitution in 2005, with the difference that the Prosecutor's Office could file a lawsuit for the protection of state interests in "cases and procedures prescribed by law," whereas with the 2015 amendments, this was changed to "in exceptional cases and procedures prescribed by law."

These changes reflect the legislator's intention to limit and clarify the authority of the Prosecutor's Office to file lawsuits for the protection of state interests, making it applicable only in exceptional situations. Thus, through constitutional and legislative amendments, the exceptional nature of the Prosecutor's Office's authority to file lawsuits for the protection of state interests has been emphasized.

It should also be noted that the definition of the filing of a lawsuit for the protection of state interests by the Prosecutor's Office in only exceptional cases was positively highlighted by the Venice Commission in its opinion[14] on the Constitution, amended in 2015. According to Article 29, Part 2 of the Law on the Prosecutor's Office, in the case of a violation of state interests, the Prosecutor's Office is authorized to file a lawsuit both when no state or local self-government body has the authority to do so and in situations where the state or local self-government body that has the authority to file a lawsuit for the protection of state interests, after being informed of the violation, has failed to file a lawsuit within a reasonable time.

Based on the analysis of this provision, the Court of Cassation has noted that in the first case, when the prosecutor believes that the state's (community's) property and non-property interests have been violated or are directly threatened by an administrative act, action, or inaction of an administrative body, and no state or local self-government body has the authority to file a lawsuit concerning the protection of state (municipal) interests, the prosecutor should immediately begin the process of filing a lawsuit for the protection of state (municipal) interests. That is, in cases where a violation of state (municipal) interests has occurred concerning matters for which filing a lawsuit is not reserved by law for any state or local self-government body, the prosecutor gains primary authority to file a lawsuit for the protection of state (municipal) interests. However, in a number of cases, the legislator has reserved the primary authority to file a lawsuit for the protection of state (municipal) interests to the state or local self-government body responsible for the area in which the state (municipal) property damage has occurred.

Therefore, in cases where filing a lawsuit concerning the protection of state (municipal) interests is reserved for a state or local self-government body, the prosecutor must first propose filing a lawsuit to the relevant state or local self-government body. Only after receiving the proposal from the prosecutor, if the relevant body fails to file the lawsuit within a reasonable time, in other words, exhibits inactivity, does the prosecutor gain the authority to file the lawsuit for the protection of state (municipal) interests.

According to point 1 of part 2 of Article 29 of the Law on the Prosecutor’s Office, the prosecutor may file a lawsuit for the protection of state interests when the authorized body or person fails to file a lawsuit within a "reasonable period" after receiving the prosecutor’s proposal. In the absence of clear criteria for determining this period, the failure of competent state or local self-government bodies to present a position on the prosecutor’s proposal for a prolonged time may, in practice, lead to the expiration of the statute of limitations.

14. Second Opinion of the Venice Commission on the Amendments to the 2015 Edition of the Constitution of the Republic of Armenia, October 28, 2015, paragraph 55, https://cutt.ly/AeXXhsk6

To prevent such situations, when the Prosecutor's Office of the Republic of Armenia submits a proposal to a competent state or local self-government body to file a lawsuit, it suggests that the authorized body respond within a short period (for example, within one month) as to whether it will file the relevant lawsuit in court. If the authorized body fails to respond within the specified period, the exceptional authority of the Prosecutor's Office of the Republic of Armenia to file the lawsuit is considered to have arisen, as the inactivity of the authorized body is thereby substantiated.

It should also be noted that in its decision No. CC2/0250/05/23 dated May 10, 2024, the Court of Cassation of the Republic of Armenia addressed the interpretation of the term "reasonable period." The court stated that after receiving the prosecutor's proposal, the authority of the relevant state or local self-government body to file a lawsuit for the protection of state interests is limited to a reasonable period. In this regard, the Court of Cassation determined that this period should be calculated **based on the time limits set by the Administrative Procedure Code of the Republic of Armenia for the respective type of claim.** Moreover, the starting point for calculating this period should be determined by the moment the prosecutor's proposal is received. In other words, once the period prescribed by the Administrative Procedure Code for the respective type of claim expires after the prosecutor's proposal has been received, the authority of the state or local self-government body ceases, and the prosecutor's right to file the lawsuit, along with the corresponding time limits, takes effect.

For comparison, in case ACC/0138/02/23, the legal basis for the Shirak Regional Administration to file a lawsuit arose from the decision issued on October 31, 2019, titled "On Termination of Criminal Proceedings and Non-Prosecution." Due to the failure of the Shirak Regional Administration to file the relevant lawsuit, the Prosecutor's Office submitted a claim to the Anti-Corruption Court on March 13, 2020. In other words, the claim was filed 4.5 months later.

In cases ACC/0133/02/23 and ACC/0040/02/23, the grounds for filing a lawsuit arose in November 2020. However, the Prosecutor's Office submitted the claim to the Anti-Corruption Court in July 2023 for case ACC/0133/02/23 and in February 2023 for case ACC/0040/02/23, meaning approximately 2.5 years later.

The subject-matter jurisdiction of claims for the protection of state (community) interests falls under the Anti-Corruption Court.

According to Article 24 of the Constitutional Law "Judicial Code of the Republic of Armenia," among other cases, the Anti-Corruption Court has jurisdiction over cases initiated by

the prosecutor under civil procedure for the protection of the state's property and non-property interests.

For instance, in the framework of civil case ACC/0133/02/23, the Prosecutor General's Office of the Republic of Armenia filed a claim with the Anti-Corruption Court demanding compensation for damages inflicted on the state. The claim pertains to incidents following the announcement of the trilateral statement between the Republic of Armenia, the Russian Federation, and the Republic of Azerbaijan on November 10, 2020, which aimed to end the war unleashed against the Republic of Artsakh on September 27, 2020. According to the claim, after the publication of the statement, the respondents participated in mass riots in the Red Hall of the Government Building No. 1 of the Republic of Armenia, during which they damaged and destroyed a large television worth 7 million AMD.

Or, in the case of ACC/0040/02/23, where the Military Prosecutor's Office of the Lori Garrison filed a claim with the Anti-Corruption Civil Court against a contractual private serviceman, who was the driver of the automobile squad of the garrison platoon of Military Unit No. 51036 of the Ministry of Defense of the Republic of Armenia. According to the claim, while operating the Ural-325507-0013 military vehicle with registration number MOD 26-06 S, the serviceman failed to comply with the traffic rules established by the Government of Armenia. His actions allegedly created a hazardous situation, as he did not maintain a speed that would allow him to fully control the vehicle in accordance with traffic regulations. As a result, he lost control of the vehicle, veered off the roadway, and rolled into a ravine on the left side of the road, causing damage to the Ural-325507-0013 military vehicle with registration number MOD 26-06 S, leading to property damage.

In the first example, the case concerns compensation for property damage caused by the unlawful actions of a private individual. This is a classic civil dispute, lacking the element of misuse or abuse of entrusted public authority to cause financial harm to the state. Similarly, the second case does not involve any manifestation of corrupt behavior but rather pertains to compensation for property damage resulting from a traffic accident. Since these cases were initiated by the Prosecutor's Office based on the protection of state interests, they have fallen under the jurisdiction of the Anti-Corruption Court.

The review of judicial acts demonstrates that cases related to the protection of the state's property interests typically involve issues such as underpayment or non-payment of taxes, unauthorized pension payments to third parties without a valid power of attorney, compensation for damage caused by illegal logging, and other unlawful actions resulting in financial harm to the state. These cases, by their nature, primarily involve civil disputes related to financial damage rather than corruption-related offenses.

The justification for the establishment of the Anti-Corruption Court indicates that its jurisdiction

was determined based on the complexity of civil cases concerning the protection of state property and non-property interests, the relatively new and rapidly evolving nature of asset recovery mechanisms, and the need to alleviate the workload of civil court judges. This suggests that the primary criterion for assigning cases to the Anti-Corruption Court was not the nature of the dispute or the presence of corruption elements but rather the involvement of the Prosecutor's Office as the plaintiff.

As a result, cases concerning the protection of state property and non-property interests, when filed by other state bodies, are examined by general jurisdiction courts, whereas the same case, if filed by the Prosecutor's Office, falls under the Anti-Corruption Court's jurisdiction. This inconsistent classification does not ensure a jurisdictional framework based on the nature of the case.

Furthermore, this approach lacks policy coherence, as the Prosecutor's Office also files lawsuits in administrative proceedings to protect state interests, yet such cases are not assigned to the Anti-Corruption Court solely due to the involvement of the Prosecutor's Office as the plaintiff. Additionally, the role of the Corruption Prevention Commission in judicial disputes is overlooked.

1.4 Specific Features of Criminal Case Examination on Corruption Offenses in the Republic of Armenia

No legal act in the Republic of Armenia defines the concepts of "corruption offense" and "corruption." To clarify the scope of corruption offenses, the Ministry of Justice of the Republic of Armenia developed and the National Assembly adopted the Law on Amendments and Addenda to the Criminal Code of the Republic of Armenia on March 25, 2020. Annex 6 of this law established a "List of Corruption Offenses,"[15] categorizing corruption offenses by type.

Accordingly, corruption offenses are defined as acts committed by a special subject, an official, or a person performing managerial functions or other official duties, using their official position to gain an unlawful advantage for financial or personal interests or group benefits. It is important to note that in the case of 40 specific corruption-related offenses, the perpetrator is not necessarily an official. For instance, in cases of bribery related to elections, both giving and receiving bribes, as well as mediation in bribery, do not require the involvement of a special subject.

At the same time, the new Criminal Code clarifies the concept of a bribe. Previously, the Criminal Code defined a bribe as money, property, property rights, securities, or any other advantage. Under the new Criminal Code, the definition includes property, including monetary funds, securities, other payment instruments, property rights, services, or any other benefit. It also encompasses requesting, offering, or accepting a proposal or promise to provide such benefits in exchange for an official using their power or influence to perform or refrain from performing an act.

The following acts are classified as corruption offenses:

- Receiving, giving, or mediating in electoral bribery;
- Violating the prohibition on charity during referendums or elections;
- Failing to conduct election campaign expenditures from the designated campaign fund during National Assembly elections or referendums, failing to declare required information, or failing to submit a declaration;
- Illegally raising large-scale donations for a political party;
- Circumventing the legal restrictions on party donations or receiving donations from unauthorized sources in large amounts;
- Fraud committed by abusing official power or influence;
- Embezzlement of entrusted property using official power or influence;
- Extortion through the abuse of official power or influence;

15. Criminal Code of the Republic of Armenia.

- Misuse of insider information through official power or influence;
- Price manipulation in the securities market through official power or influence;
- Receiving or giving bribes in the private sector;
- Bribery involving athletes, referees, team leaders, coaches, other participants in professional competitions, organizers, or commercial competition participants;
- Illegally receiving or demanding compensation for performing official or professional duties;
- Abuse of official power or influence in the private sector;
- Creating, organizing, or managing a financial pyramid using official power or influence;
- Engaging in anti-competitive activities through official power or influence;
- Money laundering through the abuse of official power or influence;
- Using actual or perceived influence over an official for personal or group interests;
- Providing illegal compensation to influence an official's decision;
- Using the pretext of bribery or influence peddling to obtain property, money, securities,
- payment instruments, property rights, services, or any other benefit;
- Abuse or exceeding of official authority;
- Illegal participation in entrepreneurial activities by an official;
- Illicit enrichment;
- Submission of false information or concealment of data in declarations by individuals required to submit financial disclosures under Armenian law;
- Official forgery;
- Provocation of bribery in both the public and private sectors;
- Knowingly prosecuting an innocent person;
- Unlawful exemption from criminal liability;
- Rendering an evidently unfair judicial verdict, decision, or other judicial act;
- Interfering with the administration of justice or case examination through the abuse of official power or influence;
- Offering bribes to participants in legal proceedings in connection with their duties;
- Receiving bribes by participants in legal proceedings in connection with their duties;
- Abuse or overreach of power (except in cases where the act was committed without financial motives but with the use of violence, threats of violence, weapons, or special means).

In anti-corruption cases, as a rule, in addition to the elements of the crime, the circumstances of the crime (such as the location, time, method, object of the crime, goals, etc.) must also be clarified. This includes determining the scope of the individuals who committed the crime, whether they are officials, the subjective aspect of the crime, the connection between the

person's actions and their official position, the presence of a benefit, the causal link between the illegal actions and the damage caused, and other relevant circumstances.

The application of plea bargaining, cooperation, and expedited procedures in the anti-corruption criminal court.

The study of judicial acts shows that plea bargaining, cooperation, and expedited procedures are widely applied in anti-corruption criminal cases, which significantly reduces the workload of courts. The law stipulates that the application of plea bargaining, cooperation, or expedited procedures does not preclude the imposition of additional penalties or security measures.

The court applies plea bargaining during preliminary hearings in public prosecution cases based on the defendant's request. After accepting the motion for plea bargaining, the public prosecutor initiates negotiations with the defendant and their defense counsel to reach an agreement. Plea bargaining cannot be applied if the defendant is charged with committing an especially serious crime, at least one of the multiple defendants involved objects to the application of plea bargaining, the defendant does not have a defense attorney, the motion is filed without consulting with the defense attorney, the public prosecutor objects to plea bargaining for legal or factual reasons, the damage caused by the crime has not been compensated, or the victim objects to the application of plea bargaining.

The court applies expedited procedures during preliminary hearings in public prosecution cases based on the defendant's request. The court considers the motion for expedited procedures during the preliminary hearings, with the mandatory participation of the defendant, their defense attorney, and the public prosecutor. The court takes measures to clarify the victim's opinion regarding the motion for expedited procedures. Expedited procedures cannot be applied if the defendant is charged with committing an especially serious crime, at least one of the multiple defendants involved objects to the application of expedited procedures, the defendant does not have a defense attorney, the motion is filed without consulting with the defense attorney, or the public prosecutor or the victim objects to the application of expedited procedures with valid reasons.

Cooperation procedures are applied to ensure the detection of medium, serious, or especially serious crimes and to guarantee the inevitability of accountability for those who committed them. The cooperation procedure can only be initiated by the defendant through the submission of a written request to conclude a pretrial agreement. The cooperation request is addressed to the supervising prosecutor and is signed by the defendant and their defense attorney. The cooperation request may be submitted from the moment criminal prosecution is initiated against the defendant until the declaration of the completion of the preliminary investigation. The request must specify the nature of the defendant's cooperation, as well as the actions the defendant agrees to take in order to assist in the disclosure of the crime or ensure the inevitable responsibility of the person who committed the crime.

1.5 Issues related to the resolution of disputes regarding the subject matter of the proceedings of the Anti-Corruption Court.

Resolution of the issue of subject matter jurisdiction in anti-corruption criminal courts.

The Anti-Corruption Court sometimes makes decisions during preliminary hearings to transfer criminal proceedings to the first-instance general jurisdiction criminal court based on jurisdiction. Upon receiving the case, the first-instance general jurisdiction criminal court may decide to refer the criminal proceedings to the Court of Cassation to resolve the issue of jurisdiction. The Court of Cassation, in accordance with Part 8 of Article 263 of the Criminal Procedure Code of the Republic of Armenia, determines the subject matter jurisdiction of the proceedings.

According to Part 8 of Article 263 of the Criminal Procedure Code, "In the case provided for in Part 5 of this article, the President of the Court of Cassation and the Presidents of the Criminal and Anti-Corruption Chambers of the Court of Cassation shall finally resolve the issue of subject matter jurisdiction within ten days from the receipt of the case at the Court of Cassation, by a decision adopted by a majority of the total number of votes. Abstaining from voting is not permitted."

A similar mechanism for resolving the issue of subject matter jurisdiction is also provided in Article 26 of the Civil Procedure Code, according to which:

"(...) 6. In the cases provided for in Parts 2 and 3 of this article, the President of the Court of Cassation and the Presidents of all chambers of the Court of Cassation shall determine the jurisdiction of the case within ten days from the moment the case is received by the Court of Cassation.

7. To adopt the decision provided for in Part 6 of this article, the President of the Court of Cassation convenes a session with the participation of all chamber presidents of the Court of Cassation. The session is considered competent if all persons entitled to participate are present (...)"

The application of the aforementioned norms is reflected in the decision of the Court of Cassation in case ACC/0051/02/24 (VD2/0231/05/23), which resolved the issue of subject matter jurisdiction between the Administrative and Anti-Corruption Courts.

It is important to note that the mechanisms for resolving subject matter jurisdiction issues, as provided by the Armenian Civil Procedure Code and the Criminal Procedure Code, differ significantly.

In civil cases, jurisdiction is determined by the President of the Court of Cassation and the Presidents of all chambers of the Court of Cassation. In contrast, in criminal cases, jurisdiction is

determined by the President of the Court of Cassation and the Presidents of the Criminal and Anti-Corruption Chambers of the Court of Cassation.

At the same time, Article 26 of the Civil Procedure Code explicitly states that the decision is made through a convened session. However, the wording of Article 263 of the Criminal Procedure Code does not clearly indicate the procedure by which the jurisdictional issue is resolved.

It should be noted that Article 26, Part 6 of the Civil Procedure Code and Article 263, Part 8 of the Criminal Procedure Code establish bodies that are not provided for in the Judicial Code constitutional law.

Article 29 of the Judicial Code of Armenia states that the Court of Cassation reviews decisions of the Court of Appeal and, in cases prescribed by law, its own judicial acts. Through the review of judicial acts within its legally defined powers, the Court of Cassation ensures the uniform application of laws and other normative legal acts and eliminates fundamental violations of human rights and freedoms. The Court of Cassation ensures the uniform application of legal acts when there is a need for legal development, or when different courts have applied or failed to apply a normative legal act inconsistently due to diverging legal interpretations. To eliminate fundamental violations of human rights and freedoms, the Court of Cassation reviews judicial acts that undermine the very essence of justice.

At the same time, Articles 33 and 34 of the Judicial Code do not include any reference to the authority of the President of the Court of Cassation or the President of a Chamber of the Court of Cassation to decide on matters of subject matter jurisdiction.

Thus, according to Article 33, Part 2 of the Judicial Code constitutional law, in addition to the powers of a judge of the Court of Cassation, the President of the Court of Cassation:

1. *Ensures the proper functioning of the Court of Cassation, including overseeing the activities of its staff.*
2. *Grants leave to the judges of the Court of Cassation.*
3. *Represents the Court of Cassation in relations with other bodies.*
4. *Refers matters related to the proper functioning of the Court of Cassation to the Supreme Judicial Council, the General Assembly, and its committees.*
5. *When detecting a potential violation of judicial conduct by a judge of the Court of Cassation, including the president of a chamber, submits a report to the Ethics and Disciplinary Committee.*
6. *Exercises other powers as prescribed by law.*

According to Article 34, Part 2 of the Judicial Code, the President of a Chamber of the Court of Cassation: organizes the work of the chamber, presides over chamber sessions, in the case of the Anti-Corruption Chamber, presides over the sessions of the judicial panel in which the

chamber president is included. Additionally, if a judge of the chamber commits an apparent violation of judicial conduct rules, the chamber president must submit a report to the Ethics and Disciplinary Committee.

As can be observed, the powers of the President of the Court of Cassation are not exhaustively listed, as Clause 6 provides that the president may exercise "other powers."

In decision CCD-782, the Constitutional Court of Armenia stated that, under Article 61, Part 3, Clause 9 of the Judicial Code, **the law may grant additional powers to the President of the Court of Cassation, provided that such powers do not contradict the law and, in particular, the other powers assigned to the president under Article 61, Part 3 of the Judicial Code[16].**

It is important to highlight that, according to the 2015 Constitutional Amendments' explanatory notes, "the Constitution adopted the fundamental principle that court presidents are first and foremost judges, just like any other judges, with the only difference being that, in addition to their judicial functions, they are assigned administrative responsibilities[17]."

From the above, we can conclude that the powers of the President of the Court of Cassation are strictly organizational and representative in nature and do not imply authority to determine subject-matter jurisdiction[18].

Based on this, it can be recorded that "the Judicial Code of Armenia" does not grant the President of the Court of Cassation or the Presidents of its Chambers the power to resolve subject-matter jurisdiction issues.

In the case of Galstyan v. Armenia, the European Court of Human Rights (ECtHR) stated that extraordinary remedies do not constitute effective judicial remedies. Additionally, legal remedies that depend on the discretion of state officials cannot be considered effective remedies under human rights protection standards[19].

It is noteworthy that regarding this issue, the President of the Court of Cassation of Armenia applied to the Constitutional Court of Armenia on May 3, 2021[20]. The latter, by procedural decision SDAO-123, rejected the acceptance of the application for proceedings, citing the formal justification that the President of the Court of Cassation is not a proper subject to apply to the Constitutional Court of Armenia[21]. At the same time, the Constitutional Court noted that the exercise of this power by the President of the Court of Cassation implies the resolution of

16. Decision No. CCD-782 of the Constitutional Court of the Republic of Armenia of December 2, 2008, paragraphs 6, 11.

17. V. Poghosyan, N. Sargsyan, The Constitution of the Republic of Armenia, 2015 edition, brief explanations, Yerevan, 2016, "Tigran Mets" Publishing House, p. 134, https://cutt.ly/2eXXj6ca

18. Lilit Tadevosyan, Arnold Vardanyan, Issues of the exercise of the authority of the President of the Court of Cassation of the Republic of Armenia to resolve disputes regarding the subordination of cases and the jurisdiction of the court.

19. Galstyan v. Armenia judgment (No. 26986/03, 15.02.2008, §§ 39-42),https://cutt.ly/UeXXli6D

20. Lilit Tadevosyan, Arnold Vardanyan, Issues of the exercise of the authority of the President of the Court of Cassation of the Republic of Armenia to resolve disputes regarding the subordination and jurisdiction of cases.

21. Constitutional Court Decision No. CCPD-123 of June 25, 2021.

disputes between courts regarding territorial jurisdiction and subordination of cases, which, in essence, constitutes judicial administration.

Furthermore, in order to ensure the application and effectiveness of legal acts, the Constitution establishes a certain hierarchy, within which constitutional laws have higher legal force, and ordinary laws cannot contradict constitutional laws (Article 5 of the Constitution). According to Article 103, Part 2 of the Constitution, the Rules of Procedure of the National Assembly, the Electoral Code, the Judicial Code, the Law on the Constitutional Court, the Law on Referendum, the Law on Political Parties, and the Law on the Human Rights Defender are constitutional laws and are adopted by at least three-fifths of the total number of deputies. The legal regulation of a constitutional law must not go beyond the scope of its subject matter. A greater degree of legitimacy is prescribed for constitutional laws. Unlike procedural codes, which, according to the same article, Part 1, are adopted "by the majority of the votes of the deputies participating in the voting, provided that more than half of the total number of deputies have participated in the voting," constitutional laws require a higher threshold of votes.

According to Article 1 of the "Judicial Code of the Republic of Armenia," the Judicial Code regulates the relations concerning the formation and organizational functioning of the judiciary, except for matters related to the formation and organizational functioning of the Constitutional Court.

The Civil and Criminal Procedure Codes have included within their regulatory scope issues that should have been regulated exclusively by the Judicial Code as a constitutional law.

In this regard, the regulatory level concerning judicial panels has been violated. The bodies stipulated by Article 26 of the Civil Procedure Code and Article 263 of the Criminal Procedure Code are not prescribed by the Constitution of the Republic of Armenia or the "Judicial Code of the Republic of Armenia" as a constitutional law, making the regulation itself unconstitutional.

It is noteworthy that there are no mechanisms for appealing a decision made as a result of resolving the issue of subject-matter jurisdiction. In its decision EAND/0563/02/16, the Court of Cassation of Armenia found that the absence of a legislative possibility to appeal a first-instance court's decision rejecting a request for the issuance of an enforcement order has restricted an individual's right to judicial protection[22]. Furthermore, in its decision No. CCD-780 of November 25, 2008, the Constitutional Court of Armenia expressed the legal position that one of the essential components of the right to judicial protection guaranteed by the Constitution of

22. Decision of the Court of Cassation of 07.12.2018 EAND/0563/02/16.

Armenia is the right to appeal[23]. According to the legal position expressed in the Constitutional Court's decision No. CCD-1037 of July 18, 2013, the purpose of the judicial act appeal mechanism is not only to verify the lawfulness of granting or rejecting the presented claim. This mechanism serves as a fundamental and essential legal safeguard ensuring that lower courts uphold the key components of the right to a fair trial, particularly its procedural guarantees.

At the same time, if the "direct appeal" of a judicial act poses a serious risk to the implementation of the principle of examining a case within a reasonable time, the possibility of a "deferred appeal" can be considered[24], allowing for a review within the framework of appealing the final judicial act concluding the proceedings[25].

23. Decision No. SDO-780 of the Constitutional Court of the Republic of Armenia of November 25, 2008.

24. Decision of the Court of Cassation of February 10, 2021, No. SHD/0109/06/19.

25. Decision No. CCD-918 of the Constitutional Court of the Republic of Armenia of September 28, 2010.

Chapter 2. The Anti-Corruption Court of the Republic of Armenia

2.1 The fight against corruption in the Republic of Armenia: a historical overview

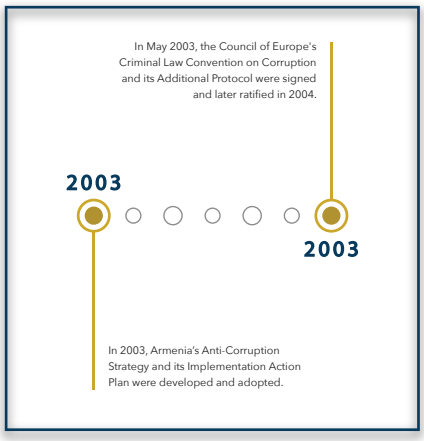
Since becoming independent, the Republic of Armenia has undertaken efforts to combat corruption. The first domestic document in this regard was the Anti-Corruption Strategy of Armenia and its implementation action plan[26], developed and adopted by the Armenian government in 2003. Following this, various legislative documents were adopted, and the country began joining international organizations dedicated to fighting corruption.

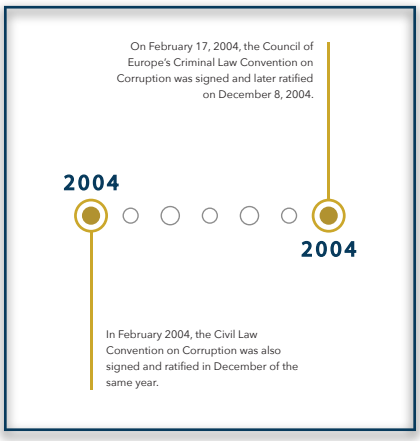
Notably, in May 2003, Armenia signed and, in June 2004, ratified the Council of Europe Criminal Law Convention on Corruption and its Additional Protocol. Additionally, in February 2004, Armenia signed and, in December of the same year, ratified the Civil Law Convention on Corruption. On February 17, 2004, Armenia signed, and on December 8, 2004, ratified the Council of Europe Criminal Law Convention on Corruption.

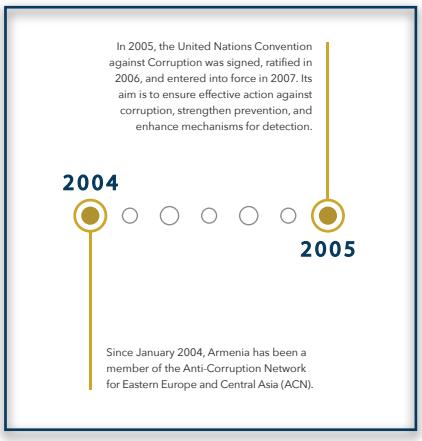
Since 2003, Armenia has been involved in the Istanbul Anti-Corruption Action Plan within the Anti-Corruption Network for Eastern Europe and Central Asia of the Organisation for Economic Co-operation and Development (OECD). In January 2004, Armenia became a member of the Group of States Against Corruption (GRECO).

In 2005, Armenia signed the United Nations Convention Against Corruption (UNCAC), which aims to ensure an effective fight against corruption by strengthening mechanisms for prevention and detection. The convention was ratified by the National Assembly in 2006 and entered into force in 2007.

These international documents not only reinforced the legal foundations of Armenia's anti-corruption efforts but also increased the country's obligations to take concrete steps in the fight against corruption.







26. RA Government Resolution No. 1522-N of December 1, 2003 "On Approval of the Anti-Corruption Strategy of the Republic of Armenia and the Program of Measures for Its Implementation", https://cutt.ly/ReXXxZ6g

Since 2016, Armenia has been a member of the "Interstate Council for Combating Corruption," operating within the framework of the organization of CIS participating states, which was established in 2013. On October 11, 2019, Armenia ratified the Agreement on Cooperation of the CIS Participating States in Combating Corruption, aimed at increasing the effectiveness of cooperation among participating states in the fight against corruption.

On June 7, 2018, the National Assembly of Armenia approved Decision No. NAD-006-N On Approving the Program of the Government of the Republic of Armenia. This decision[27] defined the fight against corruption and public rejection of corruption as a key priority, emphasizing that the Government would be decisive, resolute, uncompromising, and intolerant in this struggle. To achieve this, it was determined that existing legislative regulations should be enforced, and new, more effective tools should be introduced. As an example, the creation of a specialized, independent anti-corruption body was mentioned, which would not only be able to carry out monitoring, oversight, and studies but would also be authorized to perform operational intelligence, investigative, and pre-investigative functions. Subsequently, a new anti-corruption strategy was adopted.

By decision No. 1332-N[28] of October 3, 2019, on approving the Anti-Corruption Strategy of the Republic of Armenia and the 2019-2022 Action Plan for Its Implementation, the Government of Armenia approved the country's anti-corruption strategy, which provided for a series of institutional reforms in this field. As a result of these reforms, several specialized anti-corruption bodies were established.

Already on August 26, 2021, in decision No. NAD-002-N on approving the Program of the Government of the Republic of Armenia, approved by the National Assembly, it was stated that it was expected to fully operationalize the Anti-Corruption Committee and the Anti-Corruption Court within the shortest possible time. This was expected to enhance the effectiveness of detecting corruption-related crimes and investigating cases, as the Government had sufficient political will to succeed in anti-corruption processes and, to translate this will into real results, would continue to carry out the necessary work aimed at creating and developing the anti-corruption institutional system[29].

---

27. Resolution NDO-006-N "On Approval of the RA Government Program", https://cutt.ly/2eXXcO6D

28. The Government of the Republic of Armenia, dated October 3, 2019, adopted Resolution No. 1332-N "On Approving the Anti-Corruption Strategy of the Republic of Armenia and the Program of Measures for Its Implementation for 2019-2022", https://cutt.ly/3eXXvzlb

29. RA Government Program for 2021-2026.

2.2 Anti-corruption bodies of the Republic of Armenia

As the first step in the institutional fight against corruption, on June 9, 2017, the package of draft laws on the "Law on the Corruption Prevention Commission" and amendments and additions to related laws was adopted, according to which the **Corruption Prevention Commission** was formed in November 2019. It is a specialized autonomous body for corruption prevention, endowed with guarantees of independence, which, among other things, examines and analyzes the declarations submitted by state officials, ensures the uniform application of the legally defined incompatibility requirements and other restrictions, participates in the development of policies related to the fight against corruption, and more.

In cases provided by law, the Corruption Prevention Commission conducts integrity studies, audits and analyzes the ongoing financial activities of political parties, and examines declarations within the framework of the confiscation of property of illegal origin. The Commission, by legislative mandate, has access to state data registers, as well as financial information, including bank secrecy-protected data, information on transactions involving securities, insurance-related confidential information, and credit information[30].

Two years later, in October 2021, the **Anti-Corruption Committee** of the Republic of Armenia was established as the second body of the institutional system for combating corruption. The creation of this body was preceded by the dissolution of the Special Investigation Service. The function of investigating corruption-related crimes was transferred from the Special Investigation Service to the Anti-Corruption Committee. The latter is a specialized investigative body with guarantees of independence that organizes and conducts pre-trial criminal proceedings on corruption crimes and, within its powers, carries out operational-intelligence activities. In performing its powers and making decisions related to its structure and organizational procedures, the Anti-Corruption Committee is independent and is subject only to the Constitution and laws. The Committee has its own separate premises, independent budgetary funding, and other necessary tools for carrying out its functions[31].

One of the most significant bodies established in the fight against corruption is the Department for Cases of Confiscation of Property of Illicit Origin within the Prosecutor General's Office, which was formed in 2020. This department conducts studies to determine the existence, volume, and circle of interested persons concerning property of illicit origin as grounds for filing a claim. It mandates operational-intelligence activities to identify actual beneficiaries, interconnected persons, and the scope of property, concludes settlement agreements, and more. In parallel, in November 2021, the Department for Supervision over the

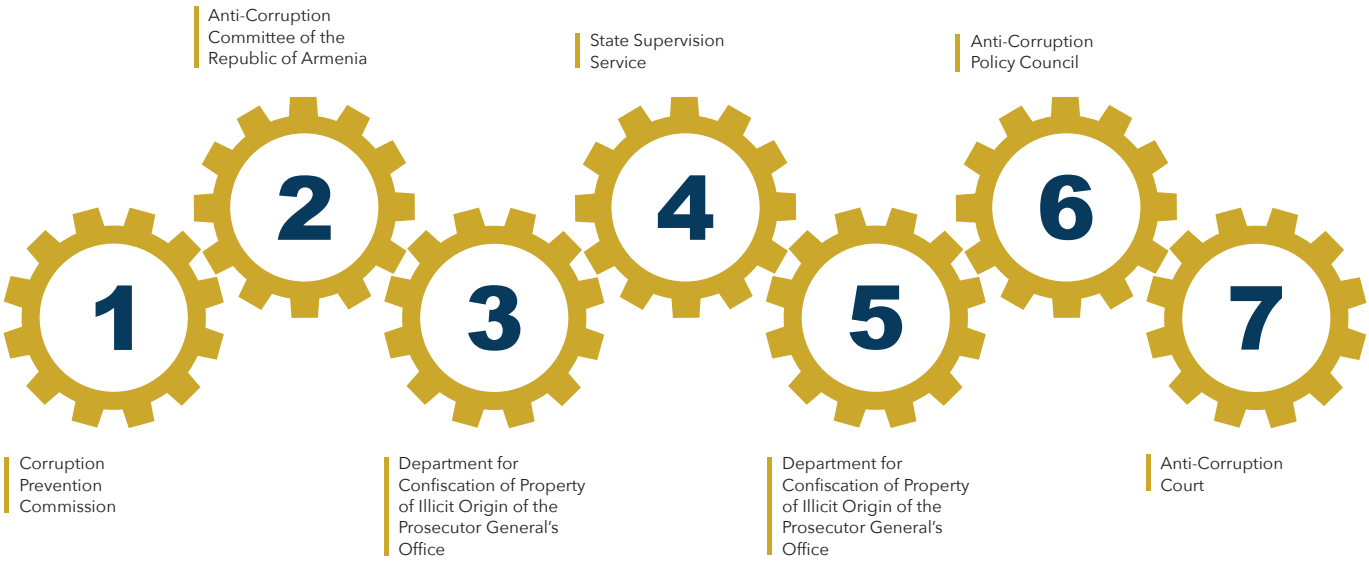
30. The Law of the Republic of Armenia "On the Commission for the Prevention of Corruption", Article 23, entered into force on 20.11.2019.
31. The RA Law "On the Anti-Corruption Committee" entered into force on 23.10.2021.

Legality of Pre-Trial Proceedings in the Anti-Corruption Committee[32] was established within the Prosecutor General's Office. This department supervises the pre-trial proceedings of all criminal cases initiated on corruption offenses under investigation by the Anti-Corruption Committee of the Republic of Armenia.

Another key player in the fight against corruption is the State Oversight Service, whose purpose is to ensure the implementation of the Prime Minister's supervisory powers as prescribed by the Constitution and laws of the Republic of Armenia. This includes overseeing the execution of government decisions, Prime Minister's orders and directives, and government action plans, including anti-corruption programs and measures.

Another important institution is the Anti-Corruption Policy Council, which is a consultative body aimed at discussing priorities and proposed solutions for combating corruption in Armenia. It also provides positions on policies, programs, and draft legal acts that contribute to corruption prevention. The Council was established by the Prime Minister's decision No. 808-N[33] on June 24, 2019. The Chairperson and members of the Council participate in its work on a voluntary basis. The organizational and technical functions of the Council are carried out by the Anti-Corruption Programs and Monitoring Department of the Prime Minister's Office.

As a logical continuation of these reforms, the Anti-Corruption Court was established in July 2022. It is a specialized court within Armenia's judicial system that administers justice in cases of corruption-related offenses.



32. Order of the Prosecutor General of the Republic of Armenia dated November 16, 2021.

33. Decision of the Prime Minister of the Republic of Armenia No. 808-N of June 24, 2019 "On establishing the Anti-Corruption Policy Council, the composition and procedure for its activities, the procedure for the competition and rotation of public organizations involved in the composition of the Council, and repealing Decision of the Prime Minister of the Republic of Armenia No. 300-N of April 18, 2015", https://cutt.ly/ueXXnmi9

2.3 Formation of the Anti-Corruption Court and Legal Basis of Operation

According to Article 163 of the Constitution of Armenia, justice in the Republic of Armenia is administered by the Constitutional Court, the Court of Cassation, appellate courts, courts of first instance of general jurisdiction, and administrative courts. The same article stipulates that specialized courts may be established by law, while extraordinary courts are prohibited.

On April 14, 2021, the National Assembly of Armenia adopted amendments and additions to the Constitutional Law "Judicial Code of the Republic of Armenia," along with a package of related laws, introducing the Anti-Corruption Court as a specialized court. This reform aimed to enhance the fight against corruption by creating a more effective and centralized judicial framework.

The establishment of specialized anti-corruption courts was initially outlined in Government decision No. 1332-N[34] of October 3, 2019, which approved "Armenia's Anti-Corruption Strategy and its 2019-2022 Implementation Plan." This decision marked a significant institutional change in the country's anti-corruption system.

On July 31, 2020, the Ministry of Justice of the Republic of Armenia published on the Unified Website for Legal Acts the Law on Amendments to the Constitutional Law on the Judicial Code of the Republic of Armenia and the package[35] of related legislative draft bills. Within the framework of the anti-corruption strategy, the creation of a specialized anti-corruption court was proposed. The draft bills noted that the body administering justice in corruption-related cases, namely the court, had not been given sufficient attention, and no special requirements had been established, despite the complexity and high public danger of corruption-related crimes. Meanwhile, there had been disproportionate attention paid to increasing the effectiveness of the investigation and oversight of corruption-related crimes (through the establishment of specialized investigative bodies dealing with corruption crimes and special prosecutors overseeing the legality of investigations and defending charges in courts).

As international experience studied (where anti-corruption courts exist) and as model examples, the following countries were cited: Afghanistan, Bangladesh, Botswana, Bulgaria, Burundi, Cameroon, Croatia, Indonesia, Kenya, Malaysia, Madagascar, Mexico, Sri Lanka, Nepal, Pakistan, Palestine, the Philippines, Senegal, Slovakia, Ukraine, Uganda, Tanzania, and Thailand.

---

34. Resolution No. 1332-N of the Government of the Republic of Armenia of October 3, 2019 "On Approving the Anti-Corruption Strategy of the Republic of Armenia and the Program of Measures for Its Implementation for 2019-2022", https://cutt.ly/jeXXmiuW

35. Draft constitutional laws and related laws of the Republic of Armenia, published on July 31, 2020, on making amendments and additions to the constitutional law "Judicial Code of the Republic of Armenia", "On making amendments to the constitutional law "Rules of Procedure of the National Assembly", https://cutt.ly/6eXXQt76

Anti-corruption courts officially began operations in Armenia in 2022. The newly established court aimed to ensure fair and impartial trials for corruption cases, thereby fostering public trust in the judicial system.

As a result of the legislative amendments adopted on February 9, 2022, the Court of Cassation's Anti-Corruption Chamber was created, and on December 23, 2022, the "Law on Amendments to the Constitutional Law on the Judicial Code of the Republic of Armenia" was passed, which led to the establishment of the Anti-Corruption Appeals Court, which conducts the appellate review of the cases in question.

According to the legislative justifications, specialized courts for corruption-related cases contribute to the efficiency, integrity, and specialization of the judiciary. Specifically, it was noted that the primary reason for establishing anti-corruption courts from an efficiency perspective is the need to enhance justice in corruption cases through such courts, given that in the judicial systems of developing or transitioning countries, case hearings are often delayed for various reasons. Regarding integrity, the justification was the desire for an independent and impartial court, free from corruption and undue influence by political figures and powerful groups, to administer justice in corruption cases. The justification for specialization was that many corruption cases, particularly those involving numerous financial transactions and various schemes, are far more complex for judges than regular criminal cases, necessitating a court with a judicial composition specialized in this field.

According to the legislative rationale published by the Ministry of Justice on July 31, 2020, on the Unified Website for Legal Acts, the "Law on Amendments to the Constitutional Law on the Judicial Code of the Republic of Armenia" and the associated legislative package, the specialized trial of corruption-related cases on a new platform could significantly increase the effectiveness of the fight against corruption by promoting its development." This was also stated by a representative of the Ministry of Justice in 2020, who noted, "…the creation of this court will make the fight against corruption more effective.[36]"

Perceptions regarding the establishment of anti-corruption courts

Before the establishment of anti-corruption courts, there were criticisms that these courts would become instruments of political influence. There was concern that political interference would be even greater in anti-corruption courts, given the sensitive nature of the cases they handle, which often involve former officials or influential individuals.

36. An anti-corruption court will be established in Armenia, judges will be selected according to "strict" criteria,https://cutt.ly/YeXXQPpu

"The establishment of these courts was itself the result of a political process, and in some cases, their operating principles are influenced by political interests, which undermines the independence and impartiality of the judiciary. The selection of judges is sometimes a product of political influence. Some judges have previously held clear political positions, which may affect their impartiality.

If you create a special court with the purpose of convicting people, the judges of that court will also be inclined, in their mindset, to convict. The state has deviated from its mission of delivering true justice.[37]"

"In some cases, the principle of impartiality is violated. It is not normal for a judge to give interviews for years, stating that 'looters must be punished,' then be appointed as a judge in the Anti-Corruption Court - only after deleting all their interviews from every platform - and now preside over cases against those so-called looters, about whom they had publicly expressed an opinion just a few years ago.[38]"

"I believe it is absolutely right to check people's social media accounts, to review their posts and attitudes. Because you cannot be an opposition or government supporter one day and then claim the next day that you are completely impartial, ready to judge everyone fairly.[39]"

At the same time, since the initiative to establish the Anti-Corruption Court in Armenia, there have been numerous discussions on whether these courts would be considered extraordinary courts.

"…It is an emergency court because it was created specifically to punish certain individuals and to confiscate their assets.[40]"

The majority of lawyers interviewed in this study argue that the creation of such courts is unnecessary, as the same cases could have been and were already being effectively handled by the first-instance courts.

Legal experts believe that the financial resources allocated for the establishment and maintenance of Anti-Corruption Courts could have been used instead to develop and improve the justice system without creating new courts, for example, by increasing the number or composition of judges as needed.

They point out that these courts do not contribute to the prevention of corruption in any way, nor do they observe any positive changes (especially when comparing the invested resources to the outcomes achieved).

---

37. Quote from an expert interview.
38. Quote from an expert interview.
39. Quote from an expert interview.
40. Quote from an expert interview.

"…A significant financial burden has been placed on the state. Even during the examination phase of cases related to property of illicit origin, the competent authority, the Prosecutor's Office, already expends substantial resources, starting with the creation of a specialized department, along with economists, experts, and other supporting personnel. Yes, the resources are enormous, and I don't see a significant difference in which court handles these cases.[41]"

There is also an opposing viewpoint arguing that these investments are justified because Anti-Corruption Courts will serve as a tool for "returning money."

"In essence, this is some kind of long-term investment. You make this investment and expenditure today with the expectation that the benefits will come in four to five years. But even in that case, it is not legally sound for the state to establish a court with the expectation that it will fill the state budget. Because a court exists to administer justice, not to grant or deny claims, rule in favor of the state, replenish the state budget, or cover its own expenses.[42]"

Issues related to the appointment and remuneration of judges during the formation of the court

The legislative package, including the "Law on Amendments and Additions to the Constitutional Law of the Judicial Code of the Republic of Armenia" and related laws, proposed the establishment of a specialized Anti-Corruption Court with at least 25 judges[43]. Of these, 20 were to handle cases related to corruption crimes outlined in Annex 6 of the Criminal Code of Armenia, while the remaining 5 were to review cases arising from applications and claims under the "Law on Confiscation of Illegally Acquired Property." The proposal also included the creation of a specialized Anti-Corruption Court of Appeal with at least 10 judges. At the same time, the number of judges in the Criminal Chamber of the Court of Cassation was to be increased to 8, while the Civil and Administrative Chamber would consist of 13 judges. Following its publication, the proposal faced widespread criticism, as it failed to provide any justification for the proposed number of judges. Specifically, the determination of the number of judges did not take into account or assess the volume and complexity of cases, their specific characteristics, court workload, or other relevant factors[44].

41. Quote from an expert interview.

42. Quote from an expert interview.

43. Draft constitutional laws and related laws of the Republic of Armenia, published on July 31, 2020, on making amendments and additions to the constitutional law "Judicial Code of the Republic of Armenia", "On making amendments to the constitutional law "Regulations of the National Assembly", https://cutt.ly/reCaqQaD

44. Protection of Rights Without Borders, Establishment of the Anti-Corruption Court in the Republic of Armenia, June 20, 2023, https://cutt.ly/zeCawljY

According to the revised and adopted Constitutional Law on the Judicial Code of the Republic of Armenia, the Anti-Corruption Court currently operates with at least 15 judges. Among them, 10 are specialized in corruption-related crimes under the Criminal Code of the Republic of Armenia, while 5 handle cases arising from the Law on Confiscation of Illegally Acquired Property. The Court of Appeal for anti-corruption cases is mandated to have at least 12 judges, with a minimum of 6 specializing in corruption-related crimes and at least 6 in anti-corruption civil cases. Additionally, the Anti-Corruption Chamber of the Court of Cassation operates with 10 judges.

	PLANNED	ACTUAL
1	Anti-Corruption Court with at least 25 judges.	The Anti-Corruption Court operates with at least 15 judges.
2	20 judges were to handle cases related to corruption crimes defined in Annex 6 of the Criminal Code of Armenia.	10 judges specialize in the examination of corruption-related criminal cases under the Criminal Code.
3	5 judges were to examine cases stemming from applications and claims under the Law on Confiscation of Property of Illicit Origin.	5 judges are specialized in cases filed under the Law on Confiscation of Property of Illicit Origin.
4	A specialized Anti-Corruption Court of Appeal with at least 10 judges.	The Anti-Corruption Court of Appeal operates with 12 judges (6 specialized in corruption-related criminal cases and 6 in anti-corruption civil cases).
5	The Criminal Chamber of the Court of Cassation was to operate with 8 judges, and the Civil and Administrative Chamber with 13 judges.	The Anti-Corruption Chamber of the Court of Cassation operates with 10 judges.

At the same time, concerns were raised regarding the appointment and promotion of judges at the time of the establishment of the anti-corruption courts, given that these courts would occasionally handle cases of high political significance.

According to Article 96 of the Constitutional Law on the Judicial Code of the Republic of Armenia, the qualification examination for judges consists of the following stages: submission and review of the application, a written exam, and an interview. To develop the written exam questions, the Supreme Judicial Council selects an appropriate specialist (or specialists) or a specialized organization. The purpose of selecting such a specialized organization is to ensure

the confidentiality of the written exam questions. However, there is no established procedure for determining which specialized organization will be responsible for formulating the written exam questions. At the same time, according to Article 103 of the Constitutional Law on the Judicial Code of the Republic of Armenia, the qualification written exam is conducted through written assignments corresponding to the criminal, civil, administrative, or anti-corruption specialization. These assignments are designed not only to assess the candidates' theoretical legal knowledge but also to evaluate their analytical and law enforcement skills.

In contrast, the study reveals that none of the 30 procedural law questions in the civil case examination pertained to procedural issues related to the Law on Confiscation of Illegally Acquired Property or cases concerning the confiscation of property for the protection of the state's property and non-property interests[45].

Moreover, according to Article 105.1 of the Constitutional Law on the Judicial Code of the Republic of Armenia, the results of the written examination can be appealed to the Appeals Commission within fifteen days after their publication. At the same time, by the decision of the Supreme Judicial Council (SJC) No. 5-D-16, a shorter, five-day period for appealing the results of the written exam was established[46]. As a result, one of the judicial candidates was unable to appeal the examination results[47]. The justification provided was that the Law on Amendments and Additions to the Constitutional Law on the Judicial Code of the Republic of Armenia (April 14, 2021, No. HO-331) granted the SJC the authority to set a new deadline, which is a final and transitional provision. According to this law, the SJC also establishes specific deadlines for the completion of the candidates' list, including separate phases of the qualification examination and related procedures, considering that the qualification verification, training, and confirmation of the judge candidates will take place after increasing the number of judges, within a maximum period of five months. This means that in practice, by SJC decision, the deadline for appealing the results of the written examination was shortened compared to the period set by the Constitutional Law on the Judicial Code of the Republic of Armenia. Therefore, the judicial candidate could not appeal the written examination results[48].

As a result of amendments to the Constitutional Law on the Judicial Code of the Republic of Armenia on January 7, 2023, the psychological testing phase for judges was removed.

According to Article 111 of the Constitutional Law on the Judicial Code of the Republic of Armenia, the SJC reviews the candidacy in its meeting and may invite the former judge for an interview if necessary. Moreover, the interview is not mandatory, and the SJC decides whether to invite a candidate for an interview on a case-by-case basis.

---

45. "The Supreme Judicial Council made an unlawful decision": the candidate was deprived of the opportunity to appeal,
46. SJC-No. 5-D-16, point 21, https://cutt.ly/DeCae5rT
47. "The SJC made an unlawful decision": the candidate was deprived of the opportunity to appeal, https://cutt.ly/ZeCaekDx
48. "The SJC made an unlawful decision": the candidate was deprived of the opportunity to appeal, https://cutt.ly/ZeCaekDx

The justification in the Law on Amendments and Additions to the Constitutional Law on the Judicial Code of the Republic of Armenia mentioned that in most countries, anti-corruption court judges hold the same status as judges in general jurisdiction courts. Therefore, there are no separate requirements for their selection or appointment. These judges should not differ in their status from other judges.

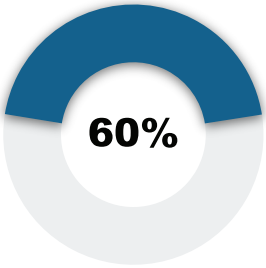
However, after the establishment of the courts, significantly higher salaries were allocated for the judges of the anti-corruption courts. As an additional guarantee for the court's operations, the proposed package of drafts suggested providing higher salaries for the judges of the anti-corruption court and the appellate anti-corruption court compared to other judges, which sparked serious discussions among the public and experts. At the same time, in 2020, the Deputy Minister of Justice noted that from the perspective of international experience, a higher level of social guarantees for such specialized courts' judges is an acceptable model. According to him, "Concerns about discrimination will certainly arise, and I believe there will be many, but we have international experience that justifies higher social guarantees for employees working in bodies combating corruption. That is, the establishment of higher social guarantees for judges of specialized courts with the corresponding specialization is an acceptable model.[49]"

The draft law on amending and supplementing the Law of the Republic of Armenia on the Remuneration of State Officials and Public Service Positions proposed setting a coefficient of 18 for the President of the Anti-Corruption Court, 17 for the judge, and 6 for the judge's assistant, whereas the coefficients for the positions of the President of the First Instance Court, judge, and judge's assistant were 11, 10, and 3.88, respectively.

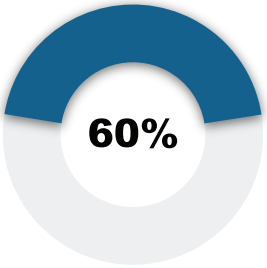
However, there was no change in the coefficients. Nevertheless, with the amendments that came into force on October 29, 2021, it was established that judges of the Anti-Corruption Court, due to the risks associated with their field of activity, would receive an additional payment equal to 70% of their official salary rate, in accordance with the procedure prescribed by law. Similarly, judges of the appellate criminal court who handle corruption-related criminal cases, and judges of the appellate civil court who deal with civil cases concerning the protection of state property and non-property interests, as well as those handling civil cases based on the Law on the Confiscation of Property of Illegal Origin, would also receive an additional payment equal to 60% of their official salary rate due to the risks associated with their field of activity. With the amendments that came into effect on January 1, 2023, the additional payment rate was lowered to 60% and 55%, respectively.

49. The salary of a judge of the Anti-Corruption Court will be about one million drams, https://cutt.ly/2eCatEkx

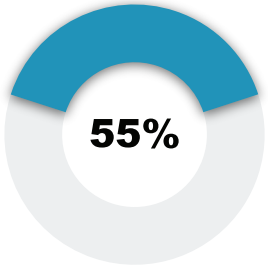
In 2024, the salaries of judges in other courts were also increased. They were equalized with the salaries of judges in the Anti-Corruption Court. Specifically, with the amendments that came into effect on January 1, 2024, it was established that:



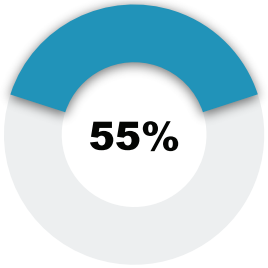
A supplement amounting to 60% of the base salary is granted to judges of the Anti-Corruption Court, in accordance with the law, due to the risk associated with the nature of their work.



A supplement amounting to 60% of the base salary is granted to judges of the First Instance Courts of General Jurisdiction and Administrative Court, in accordance with the law.



A supplement amounting to 55% of the base salary is granted to judges of the Anti-Corruption Court of Appeal, in accordance with the law, due to the risk associated with the nature of their work.



A supplement amounting to 55% of the base salary is granted to judges of the Criminal Court of Appeal, Civil Court of Appeal, and Administrative Court of Appeal, in accordance with the law.

2.4 Integrity of judges of anti-corruption courts

The introduction of the institute of good governance in Armenia

The institute of good governance was introduced in Armenia as a result of legislative changes on March 25, 2020. These changes included amendments to the "Judicial Code," the "Constitutional Court Law," and the "Anti-Corruption Commission Law," which entrusted the Anti-Corruption Commission (ACC) with the responsibility of overseeing good governance. As part of these changes, the assessment of good governance is now conducted for judges, members of the Constitutional Court, as well as candidates nominated for positions as judges of the Supreme Court and the Court of Cassation.

According to Armenia's 2019 Anti-Corruption Strategy, one of the key issues is the formation of a lawful and conscientious image of public servants, with the aim of ensuring transparency and accountability.

The justification for the adoption of the draft laws on amendments and changes to the "Constitutional Law of the Judicial Code of the Republic of Armenia," "The Law on the Prevention of Corruption," "The Law on the Investigative Committee," "The Law on the Anti-Corruption Committee," and "The Law on the Prosecutor's Office"[50] mentions that integrity is an internal characteristic. This means that a person acts according to certain principles and values, without the possibility of compromise, both in work and in personal life. It implies the honest, conscientious, correct, and diligent performance of professional duties. It is emphasized that integrity is manifested in the execution of judicial acts objectively, in complete equality, within the timeframes prescribed by law, all of which ensure the full legality of the action.

Integrity is analyzed from two different perspectives: the rule of law, where integrity pertains to the professionalism of the public servant (internal integrity), and democracy, where integrity refers to the responsibility that the justice system and its institutions bear toward society in order to gain the trust of the public (integrity from an external perspective).

The integrity of judges in anti-corruption courts

Currently, information regarding the results of the judicial ethics assessments in Armenia is not publicly available.

---

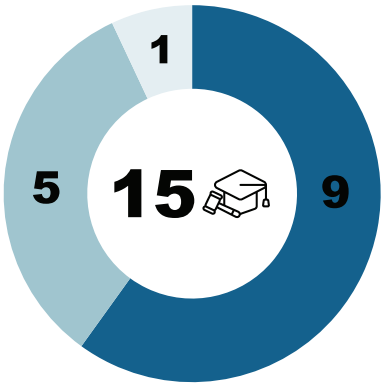
50. The justification for the adoption of the drafts of the following laws: the Constitutional Law on Amendments and Additions to the Judicial Code of the Republic of Armenia, the Law on Amendments and Additions to the Anti-Corruption Commission, the Law on Amendments and Additions to the Investigative Committee, the Law on Amendments and Additions to the Anti-Corruption Committee, and the Law on Amendments and Additions to the Prosecutor's Office, https://cutt.ly/UeXXWvO8

In the 5th round of assessment report on Armenia by the Organisation for Economic Co-operation and Development (OECD), the OECD assessment team emphasized that the conclusions regarding judicial ethics should have a more significant impact on the selection of judges[51]. The OECD also addressed the processes of judicial promotions and the selection of court presidents, stressing the importance of ensuring transparency in the appointments of officials to build public trust. Furthermore, the organization pointed out the necessity of justifying cases when candidates with negative ethics assessments are appointed to judicial positions.

According to continuous monitoring conducted by the organization "Protection of Rights Without Borders,[52]" out of 15 judges of the Anti-Corruption Court, 9 received a positive assessment from the Anti-Corruption Commission, 5 received a positive assessment with reservations, and 1 received a negative assessment.

The evaluation of the integrity of all 12 judges of the Anti-Corruption Court of Appeal was positive.

In the Anti-Corruption Chamber of the Court of Cassation, out of 9 judges, 3 received a positive evaluation, 3 received a conditionally positive evaluation, and 2 received a negative evaluation. For one judge, the CPC was unable to provide a final evaluation.

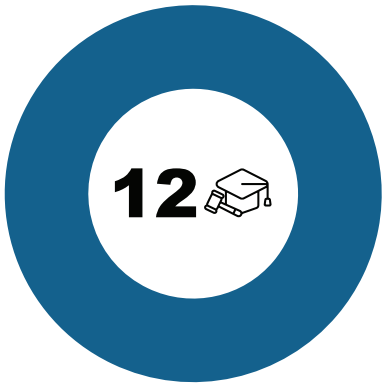


Anti-Corruption Courts

positive

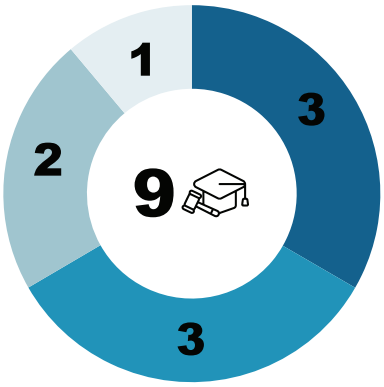
qualified positive

negative



Anti-Corruption Court of Appeal

positive



Anti-Corruption Chamber of the Court of Cassation

positive

qualified positive

negative

The CPC was unable to provide a final assessment.

51. OECD's 5th round of assessment report on Armenia, https://cutt.ly/yeXXRYe4

52. Protection of Rights Without Borders, Establishment of the Anti-Corruption Court in the Republic of Armenia, June 20, 2023, https://cutt.ly/heXXT2Wl

On November 2, 2024, the Ministry of Justice of the Republic of Armenia presented for public discussion the draft of the constitutional law on amendments to the "Judicial Code" and related laws[53]. According to the proposed amendments, if a candidate is proposed for the position of a judge, and the Anti-Corruption Committee has provided a negative advisory opinion regarding the candidate, the decision of the Supreme Judicial Council to propose the candidate to the President of the Republic, as well as to include the candidate in the list for judicial promotion to the Court of Cassation, should also include a rationale. This rationale should state the reasons for proposing the candidate for the position of a judge despite the negative opinion.

We believe this initiative is a positive step towards reforming the judicial system.

Data on the previous work experience and other characteristics of anti-corruption court judges[54].

According to the 2019-2023 Judicial and Legal Reforms Strategy of the Republic of Armenia, the establishment of a specialized anti-corruption court was planned to ensure professional expertise in the investigation of corruption-related crimes. Section 1 of the strategy, which defines its directions and objectives, states that the anti-corruption court must enjoy a high level of public trust, and its judges must possess a high level of professional competence.

The justification for the draft law “On making Amendments and Addenda to the “Constitutional Law of the Republic of Armenia” on the Judicial Code” stated that, with the aim of involving experienced professionals in the composition of anti-corruption courts - namely, current judges, former judges, and legal scholars - a simplified procedure was established for their inclusion in the list of candidates[55]. Specifically, upon submitting an application, they could be included in the list of judicial candidates, provided they passed an integrity check and successfully completed the legally required interview. Candidates included in the list were required to undergo training at the RA Justice Academy.

The study reveals that the majority of judges—22 in total—had prior experience working within the judicial system before becoming judges. Nearly half of the judges (18) had previously served as judicial assistants.

Additionally, 10 judges had worked as investigators, while 11 had experience as prosecutors. Notably, 7 judges had experience in both roles, having worked as both investigators and prosecutors.

---

53. Draft Constitutional Law "On Amendments and Supplements to the Constitutional Law "Judicial Code of the Republic of Armenia" and related laws, published 02.11.2024, https://cutt.ly/2eXXYSdw

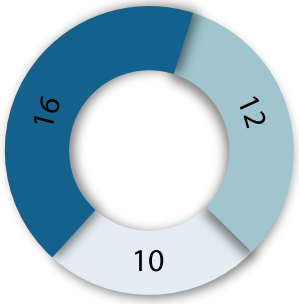
54. The data is taken from biographical data available on court.am.

55. Justification of the draft constitutional laws of the Republic of Armenia and related laws "On Making Amendments and Addenda to the Constitutional Law "Judicial Code of the Republic of Armenia", "On Making Amendments to the Constitutional Law "Regulations of the National Assembly", published on July 31, 2020, https://cutt.ly/aeXXIye2

Out of the 38 currently serving anti-corruption court judges

29% Women

71% Men



Judges of the Anti-Corruption Chamber of the Court of Cassation

First Instance Judges of the Anti-Corruption Court

Judges of the Anti-Corruption Court of Appeal

11 were prosecutor

10 were investigator

7 were both prosecutor and investigator

Eight judges have experience working in private law firms. Thirteen judges hold a license to practice law. Among the judges of the Anti-Corruption Court of Cassation, 6 out of 10 were previously judges. Similarly, in the Anti-Corruption Court of Appeal, 10 out of 12 judges had prior judicial experience. Meanwhile, in the Anti-Corruption Court of First Instance, only one out of 16 judges, Karapet Badalyan, had previously served as a judge.

9 » **10** and more years of professional experience

17 » **2** years of professional experience

6 » **1** year of professional experience

5.7

average years of professional experience

Chapter 3. Research Results

3.1 Results of the Qualitative Study on the Functioning of the Anti-Corruption Court and Judicial Decisions

Below are several pressing issues related to the functioning of the Anti-Corruption Court, identified through interviews with experts in the field and a qualitative study of judicial decisions. Where applicable, the study's findings have been supplemented with legal analysis and observations from the report's authors.

Issue 1: Transparency of Judicial Decisions and Protection of Personal Data Problems with the Datalex system

Problems with the Datalex system

Within the scope of our study, the first issue we encountered was that, for a significant period following the establishment of the Anti-Corruption Court, judicial decisions were not being published on the Datalex platform. Some of these decisions could only be found in scanned format on the court.am website, while others were entirely unavailable. Moreover, the court.am website only provided access to final rulings issued by the courts, which often did not reflect the content of several important decisions. It is worth noting that the files were available only in JPEG format, making it impossible to scroll through the pages of a ruling or open multiple pages at the same time. This significantly complicated the process of reviewing the decisions.

According to the Constitutional Law "Judicial Code of the Republic of Armenia", judicial acts concluding proceedings in a judicial instance (hereinafter referred to as final judicial acts), as well as other judicial acts in cases prescribed by law or by a decision of the Supreme Judicial Council, are subject to mandatory publication on the official website of the judiciary. The official website of the judiciary also publishes information regarding cases and their progress, the scope and publication procedure of which are determined by the Supreme Judicial Council.

On February 25, 2021, by Decision No. SJC-9-D-13 of the President of the Supreme Judicial Council, it was established that the aforementioned information entered into the judicial automated system is automatically transferred to the "Datalex" judicial information system (datalex.am) through a designated program at the end of each working day.

However, for an extended period, cases from the Anti-Corruption Court were not accessible in the system, preventing the public, civil society organizations, and mass media from monitoring the progress of cases under the court's jurisdiction, obtaining necessary information about them, or reviewing the issued judicial decisions.

The windows for criminal and civil cases of the Anti-Corruption Court became available on Datalex only in October 2023, more than a year after the court began its operations. Until then, only hearing schedules, the classification of sessions as open or closed, and final judicial acts were published on court.am. This did not fully ensure the principle of transparency. Moreover, even after the creation of dedicated sections for anti-corruption cases on Datalex, the system did not function properly.

Subsequently, on July 24, 2024, an announcement was posted on the judiciary's official Facebook page stating that, since April, technical issues had arisen in Datalex and the document circulation system, leading to periodic failures in the publication of judicial acts and data updates. According to the announcement, on June 28, a water leak occurred in the Judicial Department building, damaging the servers that maintained the system.

As of that date, the Judicial Department had taken measures to secure the server room with the necessary safety equipment and had partially restored the electronic automated system for case distribution, however:

The databases of three courts, the Bankruptcy Court, Aragatsotn Court, and the Administrative Court of Appeal, have not been restored.

It is currently impossible to enter information into the electronic case cards.

The system for the transmission and reception of electronic case card information between courts has malfunctioned.

The transport system responsible for transferring data from all court servers to the Judicial Department's data center is down, resulting in the Datalex system not being updated."

According to the announcement, within two months, the existing issues would be fully resolved through the implementation of modern technologies and enhanced security measures, ensuring that the judicial system would be protected from similar incidents in the future.

In reality, however, the website continues to experience malfunctions, and there are no guarantees that judicial acts will be properly integrated into the system.

"The operation of Datalex is very poor. And it's not just about the Anti-Corruption Court but the overall system, particularly in Yerevan courts. Even hearings are not scheduled properly. I think it's related to the workload of judicial panels because we know how overburdened they are. The failure to update Datalex should be considered a serious issue by the Supreme Judicial Council, the courts, and the court presidents. In general, Datalex is not properly maintained. As far as I know, its technical support is not systematically managed[56]*."*

56. Quote from an expert interview.

Issues Related to Personal Data Protection

At the same time, the study of judicial acts reveals that even in the cases where decisions are published, the personal data of the parties involved are often not properly redacted. In many instances, their passport details are also openly accessible. In some cases, when a settlement agreement is reached, personal data is redacted in the upper part of the ruling, yet passport details remain visible in the settlement agreement text.

According to the "Judicial Code of the Republic of Armenia," judicial acts containing personal life data, biometric data, special categories of personal data, or children's personal data must be published in a depersonalized manner on the official website of the judiciary.

"Whether or not these decisions will be available is a different question. But there is an issue with the protection of personal data and redacting names. What matters to us is that judicial acts are accessible so we can ensure consistency, but it is not necessary for everyone to know who, for instance, committed a murder in 1930—especially since that conviction might later be expunged. Names and surnames should be written with initials[57]."

Issue 2: Case Examination Deadlines

One of the main issues in the Armenian judicial system is the delay in the examination of cases. Sometimes, court hearings can be scheduled with intervals of four to five months, which often disrupts the timely and effective examination of cases. This situation is due to the large volume of cases in the courts, a lack of personnel, heavy workloads, and other reasons.

However, this problem is less frequent in the Anti-Corruption Court. In this context, the activity of the Anti-Corruption Court is quite exceptional, as there is almost no practice of scheduling hearings with long breaks. In the Anti-Corruption Court, hearings are usually held once a month, and sometimes several times a month. Interviews with judges, prosecutors, and lawyers show that hearings in the Anti-Corruption Court are almost always postponed for objective reasons, such as the large number of defendants, the lawyer being busy with another court hearing, the judge being on vacation, and other reasons.

Compared to other courts, the faster pace of case examination has prompted a dual approach in the legal community. Some lawyers positively assess this practice, noting that the swift examination of cases prevents judges from "forgetting" cases and evidence, thus ensuring fair and timely justice. At the same time, other members of the legal community express concerns that this speed might result in unnecessary haste, which could affect the thorough examination of cases and the fairness of decisions.

57. Quote from an expert interview.

"For example, in the general jurisdiction criminal court of Yerevan, hearings are scheduled every two or three months, whereas in the Anti-Corruption Court, one case can have two or three hearings within a month. Compared to that, hearings in the Anti-Corruption Court are scheduled and cases are examined much more quickly[58]."

At the same time, the study shows that there are still delays related to issues regarding the resolution of substantive opposition in the proceedings and the confiscation of illegally obtained property, which will be discussed below.

Issue 3: Delays in Case Examination Due to the Resolution of the Substantive Opposition in the Case

According to the Civil and Criminal Procedure Codes, mechanisms for resolving the issue of substantive opposition in the proceedings can be a cause of unnecessary delays in case examination, potentially infringing on an individual's right to a fair trial. As stipulated by Article 8 of the Constitutional Law of the Judicial Code of the Republic of Armenia, the activities of the courts should be organized in such a way as to ensure the effective judicial protection of each person's rights and freedoms, with the case being examined fairly, publicly, and within a reasonable time by an independent and impartial court based on the law.

Article 9, part 2 of the same law stipulates that the reasonableness of the duration of the case examination must take into account the circumstances of the case, including its legal and factual complexity, the behavior of the participants in the proceedings, and the consequences of the prolonged examination for the participant in the case.

The Supreme Court, in its decision on the criminal case EAKD/0016/01/14, emphasized that "The Supreme Court reaffirms its position that the principle of a reasonable time for trial is one of the fundamental human rights. It is a central component of the right to a fair trial and is aimed at ensuring that the case is examined in the shortest possible time, resolving the legal dispute concerning the individual's rights and interests, and issuing a final court decision. The guarantee of the right to a trial within a reasonable time also ensures the restoration of social justice, helps prevent and obstruct crimes, and strengthens public trust in the state's ability to effectively counter criminal offenses. This concept is also supported by the international legal principle "Justice delayed is justice denied[59]," according to which unjustified delays in proceedings can lead to the "denial of justice" for the parties involved." Therefore, courts conducting preliminary and judicial examinations should make every effort to ensure the realization of the individual's right to a trial within a reasonable time.

58. Quote from an expert interview.

59. The decision of the Court of Cassation in the criminal case EAKD/0016/01/14.

The issue of resolving substantive opposition in the proceedings, as prescribed by the Civil and Criminal Procedure Codes, has been studied through 35 judicial cases on substantive opposition decided by the Supreme Court, of which 23 were transferred to the Anti-Corruption Court by the court's decision, and 12 were sent to the first-instance general jurisdiction criminal court.

Below are two legal cases in which the resolution of substantive opposition caused unnecessary delays in the examination of the case:

Case 1: ED1/2194/01/23 (ACC/0239/01/23)

On **October 26, 2023**, the Anti-Corruption Court issued a decision to take on criminal case ACC/0239/01/23 and to schedule preliminary hearings for November 6, 2023.

On **December 11, 2023**, during the preliminary hearings, the Anti-Corruption Court decided to send the criminal case, due to opposition, to the first-instance general jurisdiction criminal court of Yerevan.

The court's decision noted that the defendants were not public officials at the time of committing the alleged acts, and therefore, the crimes under Article 178 of the Criminal Code of Armenia could not have been committed using their official position.

The Anti-Corruption Court also noted that the factual description of the charges against the defendants did not include any indication that the alleged crimes were committed by using their official positions.

The first-instance general jurisdiction criminal court of Yerevan, upon reviewing the case, found that the charges against A. Militosyan and T. Grigoryan stated that they allegedly committed the criminal acts by utilizing their official powers and noted that they were accused of committing a crime of a corrupt nature.

The court further noted that although the former Criminal Code of Armenia did not provide for fraud as an element of "using official powers," this did not mean that the alleged crimes charged against the defendants did not have a corrupt nature.

The court also emphasized that the indictment and the decisions to initiate criminal prosecution against Aida Militosyan and Tereza Grigoryan clearly showed that the factual composition of their alleged actions was of a corrupt nature, and other issues could be clarified during the trial.

As a result, the first-instance general jurisdiction criminal court of Yerevan, on **December 27, 2023**, decided to send criminal case ED1/2194/01/23 (ACC/0239/01/23) to the President of the Supreme Court for the resolution of the opposition issue.

The criminal case was received by the Supreme Court on **January 3, 2024**.

After reviewing the case, the Supreme Court concluded that the charges against the defendants clearly showed that they allegedly assisted in the fraudulent theft of another's

property by using their status and authority as medical center leaders, which, according to the Appendix No. 6 of the Criminal Code of Armenia "List of Corruption Offenses" adopted on April 18, 2003, is classified as a corruption crime.

As a result, the Supreme Court found that criminal case ED1/2194/01/23 (ACC/0239/01/23) was subject to opposition and sent the case to the Anti-Corruption Court for resolution.

The case was received by the Anti-Corruption Court of Armenia on **January 16, 2024**.

Case 2: ACC/0188/01/23 (ED1/1299/01/23)

On **August 30, 2023**, the Anti-Corruption Court decided to take on criminal case **ACC/0188/01/23** and schedule preliminary hearings for September 5, 2023.

On September 5, 2023, during the preliminary hearings, the Anti-Corruption Court decided to send the criminal case, due to opposition, to the first-instance general jurisdiction criminal court of Yerevan. Similar to case **ED1/2194/01/23 (ACC/0239/01/23)**, the court found that the defendants were not public officials at the time of committing the alleged act. The Anti-Corruption Court noted that the defendants did not use any official powers or position; otherwise, the charge would have indicated the use of an official position, and the absence of such a note suggested that the charge did not involve a corruption crime.

The criminal case was received by the general jurisdiction criminal court of Yerevan on September 11, 2023, and assigned case number ED1/1299/01/23.

After reviewing the case, the first-instance general jurisdiction criminal court of Yerevan found that the defendants used their authority and status as the head (co-director, director) of a medical center to commit fraud by stealing another's property, and thus the crimes charged in the criminal case were of a corrupt nature.

On June 12, 2024, the court concluded that the criminal case ED1/2194/01/23 should be sent to the Anti-Corruption Court due to opposition and, instead of sending it to the Supreme Court, it further prolonged the examination.

On June 26, 2024, the Anti-Corruption Court decided to send the case to the President of the Supreme Court to resolve the opposition issue.

On July 8, 2024, the Supreme Court, in its decision, sent the case back to the Anti-Corruption Court, where it was registered on July 9, 2024.

As a result, in the case **ACC/0188/01/23 (ED1/1299/01/23)**, for **nearly a year**, the courts were unable to resolve the issue of opposition related to the subject matter of the proceedings.

Problem 4: Issues Related to Determining the Extent of Damage

Cases examined by the Anti-Corruption Civil Court involve the execution of financial calculations.

These civil cases primarily deal with the compensation for damage caused to the state or

municipality and are related to the illegal movement, conversion, and legalization of financial resources. In this context, experts in the economic field are involved in cases related to the confiscation of illegally acquired assets, assisting in the analysis and evaluation of financial calculations.

As a result of legislative changes, the composition of the Anti-Corruption First Instance Court was expected to be augmented by two new positions for Senior Economist Specialists, and the Anti-Corruption Appeals Court was to receive one new position for a Leading Economist Specialist[60]. These specialists were meant to support judges in conducting calculations. The positions were determined based on a needs assessment carried out by the Judicial Department. The corresponding salaries were set at 160,484 AMD for the Senior Economist Specialist and 139,272 AMD for the Leading Economist Specialist, excluding taxes. However, the proposed salaries do not align with the qualifications and responsibilities expected of highly qualified specialists.

Although these positions were added in August 2024, both positions remained vacant at the time of the report's publication, indicating that the low salaries hinder the filling of these positions.

One of the judges from the Anti-Corruption Court, during an interview conducted by us, mentioned the following:

"The difficulties related to performing calculations are substantial. The calculations are quite extensive, and there is a need to review, analyze, and revisit them. We have informed the Supreme Judicial Council about this, and as a result, the Anti-Corruption Court has been allocated two economist positions to assist the judges' staff with this matter. In other words, the difficulty stems from the volume of the cases and calculations, and the necessity to reanalyze and review them[61]."

Given the volume of work required for the calculations, the issuance of judgments may be delayed. For example, in one case involving the confiscation of illegally acquired property, the judge was unable to issue the ruling within the legally required 15-day period because the calculations were extensive, and the publication of the ruling was delayed by 7 days[62].

Lawyers argue that the calculations are much more complex and require expert examinations. They often request financial or forensic accounting expertise, but such requests are frequently denied.

---

60. The position of an economist supporting the judge in the Anti-Corruption Court: what problems do the parties see, https://cutt.ly/peXXOv2C
61. Quote from an expert interview.
62. The position of an economist supporting a judge in the Anti-Corruption Court: what problems do the parties see, https://cutt.ly/OeXXPj0c

"We submit requests for financial or forensic expert examinations to verify the prosecutor's calculations, but they are often rejected. My question is: how can a judge, who is not an economist, auditor, or financier, but a lawyer, be expected to verify these calculations?[63]"

The issue is partially accepted by the Department for Confiscation of Illegally Acquired Property of the Prosecutor General's Office, on the grounds that the calculations are not particularly complex, but their volume is large, and it is difficult to carry them out without specific tools[64]. Prosecutors argue that they present the calculations to the court in the simplest, most accessible format possible and clarify any questions that arise during the trial.

The study shows that issues related to calculations sometimes become grounds for the annulment of judicial decisions.

For example, case ACC/0004/02/22 concerns the deliberate insertion of false data into tax reports submitted to the tax authority by the director of an LLC during their entrepreneurial activities in 2016, with the intent of evading taxes on profit and value-added tax, resulting in damage to the state. In this case, the State Interests Protection Department of the Prosecutor General's Office filed a claim with the Anti-Corruption Court to recover 10,343,000 AMD in damages caused to the state.

The Anti-Corruption Court confirmed the amount of damage caused to the state and granted the claim. However, the Appeals Anti-Corruption Court found that the first-instance Anti-Corruption Court did not address the issue of the tax payments made by the organization, totaling 21,885,000 AMD, and their intended purpose.

In its reasoning, the Appeals Court defined the scope of the new investigation as follows: *"Summing up the above, the Appeals Court records that during the new trial, the issue to be clarified is whether the amount of 10,343,000 AMD included in the claim is part of the paid 21,885,000 AMD, and whether the taxes on profit and value-added tax generated during the entrepreneurial activities in 2016 were paid by the defendant or not?."*

The same case was sent back to the Anti-Corruption Court, where the claim was partially satisfied, and the court ruled to recover 9,343,000 AMD from the defendant in favor of the Armenian state budget as compensation for the damage caused to the state.

63. Quote from an expert interview.

64. Position of economist supporting the judge in the Anti-Corruption Court: what problems do the parties see, https://cutt.ly/PeXXP1N8

Problem 5: Issues in the Implementation of the Law on Confiscation of Illegally Acquired Property

Study Period of the Law

The "Law on the Confiscation of Illegally Acquired Property" stipulates that the period for examining the origin of property may, in exceptional cases, include the period after September 21, 1991. Specifically, according to Article 7 of the law, if evidence emerges suggesting that property was acquired before the legally established time frame, and if the evidence related to the acquisition of such property is preserved, the competent authority makes a decision to set a new period for investigation. This period can only include the time after September 21, 1991.

The Constitutional Court of Armenia, in its ruling on July 8, 2022, decided to approach the Venice Commission for an advisory opinion on four issues related to this law. The Venice Commission also addressed this issue, criticizing the law's long investigatory period, deeming it vague and lacking justification. According to the Commission, the possibility of investigating property from before 1991 is problematic as the law effectively allows broad retroactive application, which, in practice, can be applied whenever the competent body acquires any evidence. The Commission emphasized that the length of this period is excessively long, which not only complicates practical implementation but also raises concerns regarding the provision of legal guarantees. Additionally, the period has shown a tendency to grow, suggesting that in the future, it may extend even further beyond reasonable and clearly defined boundaries.

During interviews, lawyers also raised this issue, emphasizing that it is objectively impossible to preserve evidence for investigations starting from 1991. They pointed out that archives from that time period are insufficient, and data on shadow income has never been properly documented. As a result, investigations often rely on incomplete or non-preserved databases, forcing individuals to prove that they had legal income in the 1990s, which often makes a fair trial impossible. In this regard, there are no legal guarantees ensuring fair trial rights for defendants.

"I represent defense in more than 10 cases, and none of them have involved an investigation period lasting 10 years. The period always extends into the 90s, and the process of extending it is never substantiated[65]."

"The periods for investigation are arbitrarily set. They stretch back to before 1991, and the property from the 1990s is questioned, even though the state didn't maintain tax records that could have at least allowed the party to demonstrate the legitimacy of their assets. Most of the

65. Quote from an expert interview.

documentation from the 1990s is lost. In practice, most of the property accumulation occurred before individuals became public officials, and the property exists physically, but not on paper[66]."

"This wealth originates from the 1990s, from Soviet times, from capital inherited from parents, etc. The court needs to assess that when I say I had a million rubles, which the prosecutor also acknowledges, at least half of it was converted into dollars. The court should determine whether it was converted into dollars or not, because I can't provide proof—it was an unrecorded transaction, and I can't find the person from whom my client bought dollars in the 1990s. Those people are either deceased or impossible to locate.

Now, when they make us justify the origin of property acquired in 2000, the person says it's inherited from their parents. We all know that cash money doesn't get written down in inheritance certificates, and we know that receiving cash was likely illegal or semi-legal during the Soviet period, as the Soviet Union didn't recognize the concept of entrepreneurial activity.

The issue arises in such cases, when we go too far back in time, we need to consider what Armenia was like back then—there was no banking system, there were banks that were later dissolved, documents were lost, and cash circulation wasn't regulated. At most, it's possible to bring witnesses who can testify to what happened, but whether their testimony is sufficient evidence remains uncertain[67]."

"Even if there were records, those documents simply weren't preserved. For example, when you inquire with the State Revenue Committee (SRC), they say their database only goes back to the 2000s. So there was no database before that[68]."

The presumption of illegal origin of property and the disproportionate burden of proof

According to the law on the confiscation of property of illegal origin, the process operates on the presumption that the property is of illegal origin, which means that the property is presumed illegal unless its legality is proven. Within this mechanism, the court can make a decision based on this presumption when the claimant, in this case the prosecutor, proves that the property owned by the defendant (whether one or several items of property or a portion of the property) cannot be justified by legal sources of income. In other words, the court can only apply the presumption of illegal origin of property if the claimant provides sufficient evidence of the absence of legal sources of income for the property.

66. Quote from an expert interview.
67. Quote from an expert interview.
68. Quote from an expert interview.

The results of the interviews show that there is insufficient predictability regarding the rules for distributing the burden of proof, leading to the perception that the burden of proving the legality of the property is also on the defendant, especially in cases where the evidence of acquisition of the property has not been objectively preserved.

The prosecutors interviewed did not see an issue here.

"I believe that the distribution is not disproportionate, and there is no problem because this is an in rem confiscation. In other words, it is directed at the property, not the person. Therefore, applying the presumption of innocence to the property is not very appropriate. And this comes from international practice[69]."

Issues related to statute of limitations in claims

According to Article 8 of the Law on the Confiscation of Property of Illegal Origin, the examination period can last a maximum of three years. If the claim is filed after this period, it is considered a case of missing the statute of limitations.

It is important to note that when the law was first adopted, this period was two years, but with amendments that came into force on July 10, 2022, it was extended to three years.

Notably, in the justification for the amendments to the Law on the Confiscation of Property of Illegal Origin and related laws, limited timeframes for investigations were established as a guarantee for the protection of fundamental human rights.

According to expert lawyers, the actual examination period is often longer because the prosecutor's office, while adhering to the three-year deadline, files a case in court, and after filing the case, continues the investigation by modifying the grounds and subject of the claim.

One expert states:

"The competent body determines the examination period, conducts the investigation, completes it, and files a claim. After that, they receive new evidence and, based on that, file new demands. That is, after completing the pre-trial phase of the investigation, they file claims regarding properties not mentioned in the conclusion, making a motion to change the subject of the claim.

The court allows this motion, and after that, we present a statute of limitations argument, claiming that the motion was filed after the three-year deadline, and it should be subject to the statute of limitations. However, this is rejected, and this clearly nullifies the purpose of the statute of limitations.

69. Quote from an expert interview.

Alternatively, the competent body fails to complete the investigation within the stipulated three-year period, then conducts some international inquiry, and based on that, the law allows an extension of the investigation period. When we ask the purpose of this international inquiry or how they know that the person might have property in some other country... of course, there is no answer[70]."

The prosecutor's office does not see an issue here:

"It does not have a limited application; there is a clear legal regulation. The law specifies that the statute of limitations starts when the investigation begins. In other words, it's three years from the start of the investigation. The statute of limitations ends when that period has passed[71]."

Issue 6. Simplified Procedure and Distribution of the Burden of Proof

Court case reviews indicate that a significant portion of anti-corruption civil cases are examined under simplified procedure in courts.

According to Article 297 of the Civil Procedure Code of Armenia, claims for the confiscation of an amount not exceeding five thousand times the minimum wage are considered under simplified procedure by the first-instance court.

The Court of First Instance may examine other cases under the simplified proceedings procedure if:

- There is a written agreement between all parties to the case consenting to have the case examined under simplified proceedings, and no party has objected to this procedure within the time limit set for submitting a response to the claim.
- Before the court renders a decision on the allocation of the burden of proof, no party to the case has objected to the claim or submitted a counterclaim.
- As a result of changes to the subject of the claim, the amount claimed does not exceed 5,000 times the minimum wage.
- The respondent has not submitted a response to the claim within the prescribed time limit.

The case is examined under simplified proceedings without holding a court hearing, except in the following cases:

- The court concludes that it is necessary to obtain clarifications from the parties involved regarding the circumstances cited as relevant to the resolution of the case and the evidence presented.
- A motion has been submitted regarding the application of the statute of limitations.
- The plaintiff has withdrawn the claim.
- The parties have concluded a settlement agreement.

The Code stipulates that the reasoning of the court's decision under simplified procedure must include the justification for accepting the plaintiff's arguments as the court's rationale, as well as the distribution of court costs among the parties involved.

70. Quote from an expert interview.
71. Quote from an expert interview.

Our study shows that the decisions of the first-instance court in anti-corruption civil cases are often overturned by the Appellate Court (for example, in the cases ACC/0053/02/22 and ACC/0042/02/23). This is because the first-instance court decided to examine the case under simplified procedure without properly notifying the parties to the proceedings. As a result, the individual involved was not aware that their case was being examined by the Anti-Corruption Court.

Although the Appellate Court of RA addressed the issue of the defendant not being properly notified in its reasoning when overturning the first-instance decision, we believe that the core issue here stems from the decision to apply the simplified procedure.

At the same time, the study reveals that even cases with significant claim amounts are sometimes examined under simplified procedure. For instance, in case HCD/0233/02/23, the claim amount was 21,802,400 AMD. It is particularly noteworthy that the case had been suspended in the Economic Court of Armenia since 2007. The court, in justifying the decision to examine the case under simplified procedure, considered that after the claim was accepted, no party raised objections to the claim, nor was a counterclaim presented before the court made a decision on the distribution of the burden of proof in the case. Upon hearing the plaintiff's representative's position, the court concluded that the conditions for applying the simplified procedure, as outlined by the Civil Procedure Code, were met.

However, given that no hearings are held under the simplified procedure, the court does not make a decision on distributing the burden of proof. As a result, essential facts that are crucial to the case remain unclear.

Issue 7. The Application of Precedents of No Significant Relevance for Resolving the Case

The application of precedents plays an important role in the process of administering justice in the Armenian judicial system. However, when courts cite irrelevant or similar precedents without sufficiently justifying their applicability, it negatively impacts the quality of judicial decisions and, more broadly, justice itself. This creates a situation where truly applicable precedents are overlooked.

According to Article 6 of the "Judicial Code of the Republic of Armenia," when interpreting the provisions of the Constitution regarding fundamental rights and freedoms in the process of administering justice, the practice of bodies operating under international human rights treaties ratified by Armenia is considered.

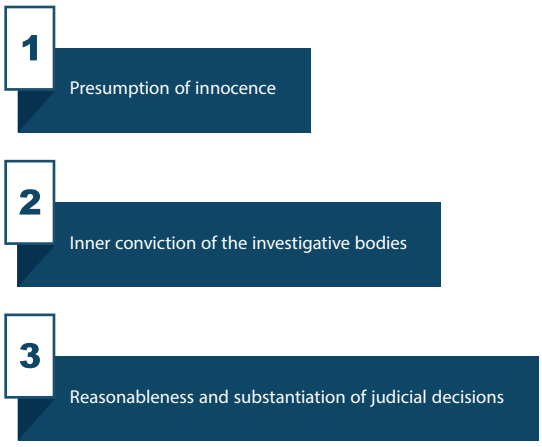
When courts refer to ECtHR (European Court of Human Rights) precedents, it is important to justify why the cited precedent is a typical example for making a decision in the specific case. The Cassation Court of Armenia, in the criminal case VB-17/08, stated that when determining whether an ECtHR judgment is applicable or not, courts cannot merely compare the factual

circumstances of the cases under consideration. Each case is unique in terms of its factual circumstances, and therefore, the court must determine how significant the differences in factual circumstances between the cases are. When deciding on the applicability of an ECtHR judgment, the court must also consider the specific provisions of the judgment that are subject to application.

A study of judgments in criminal cases shows that in 18 of them, there is a mechanical repetition of decisions by the Cassation Court. Although these decisions are relevant to resolving the case, they are frequently applied without proper legal reasoning by the court. As a result, the judgment contains only the previously interpreted precedent decision, without highlighting the specifics of the current case.

In particular, the studied judicial acts often cite the Cassation Court's decision in the Ararat Avagyan and Vahan Sahakyan case (EKD/0252/01/13), which concerns the criteria for determining the sufficiency of evidence. The "beyond reasonable doubt" evidentiary standard is based on this decision. Specifically, to determine sufficient evidence for resolving the case, one must understand it as a combination of admissible, relevant, and credible evidence that, by overcoming the presumption of innocence, forms a belief beyond reasonable doubt in the guilt of the person, as well as establishes the other facts constituting the object of proof in the case, and allows for a grounded and reasoned decision.

In judicial acts, the criteria established by this precedent are used to determine the sufficiency of evidence. These criteria include:



The same position is expressed in the Cassation Court's decision in the case of S. Sakanian (EED/0058/01/10), which is also used in the majority of the examined judicial acts.

Additionally, in most of the analyzed judicial acts, the Cassation Court's decision of May 8, 2013, in the case of Margar Hakobyan (EKD/0168/01/12) is frequently cited, particularly concerning the issue of which party in the proceedings bears the burden of presenting sufficient evidence to establish a person's guilt.

The obligation to evaluate evidence based on the judge's inner conviction is enshrined in the Cassation Court's decision of February 12, 2010, in the case of Makar Hovhannisyan and Ashot Martirosyan (EKRD/0632/01/08). This decision also serves as a fundamental reference point in the final resolution of judicial acts.

In most of the examined judicial acts, the reliance on these specific precedents from the Cassation Court's case law is predominant as a basis for legal reasoning. However, the same cannot be said for judicial acts where a settlement procedure has been applied. In such cases, disputes are resolved through the practice of mediation and reaching an agreement.

As for ECHR precedents, they are rarely applied in criminal cases, while in civil cases, a few select precedents are repeatedly referenced, despite having little significance for case resolution. For instance, the ECHR's judgment in Ringvold v. Norway (February 11, 2003) is frequently used to justify the legitimacy of initiating civil proceedings in cases where a parallel criminal case exists. This precedent has been applied in 34 civil cases.

"ECHR decisions are cited merely to create an illusion that a well-reasoned judgment is being written, unnecessarily inflating the length of the ruling[72]."

"I have seen ECHR citations in cases involving procedural matters. For example, when a counterclaim is filed and its admissibility is rejected, the court references an ECtHR decision stating that a dispute must be of a serious nature.

I believe this is just a mechanical copy-paste process. When I file a counterclaim and argue that by initiating this review or extending the review period until 1991, my client's rights have been violated, the court mechanically cites an ECHR decision that pertains to entirely different factual circumstances.

This is a general shortcoming of our judges, it's not just an issue with the Anti-Corruption Court. There was a judge who began every ruling, regardless of the claim, with the ECtHR concept of a fair trial. This probably stems from the fact that, in the past, there were no proper standards for reasoning judgments, and they were not applied. Until 2005–2007, we had rulings that were barely a page and a half long; after that, we moved to the opposite extreme[73]."

At the same time, lawyers believe that the precedents truly applicable to anti-corruption cases are often overlooked by judges. This leads to situations where crucial precedents that could contribute to the proper resolution of a case are neither applied nor interpreted.

72. Quote from an expert interview.

73. Quote from an expert interview.

It is important to note that the issue is not the quantity of precedents but their applicability. The key question is how well these precedents align with the actual facts of the case and how much they influence its resolution.

Issue 8: Physical accessibility and availability of Anti-Corruption Courts

The principle of access to justice is one of the fundamental components of a fair trial. This principle encompasses not only the accessibility of court procedures but also the physical accessibility of courts.

According to Article 22 of the Constitutional Law on the Judicial Code of the Republic of Armenia, the jurisdiction of the first-instance general jurisdiction court corresponds to the territory of Yerevan, a province, or multiple provinces. The first-instance general jurisdiction court has a central and additional court location. According to Article 26 of the same law, the jurisdiction of specialized courts covers the entire territory of the Republic of Armenia. The central locations of specialized courts are in Yerevan, although they may have branches in the provinces.

Anti-corruption courts are located in Yerevan. For residents of Armenia's provinces, this centralization creates numerous transportation, financial, and time-related obstacles. As a result, parties often fail to appear in court.

Moreover, there are cases where individuals travel to court only to find out that the hearing has been postponed. Consequently, they suffer unnecessary time and material losses, which not only undermines the efficiency of the courts but also erodes public trust in the justice system.

The issue of physical accessibility to courts (not only anti-corruption courts) for citizens in rural areas was also highlighted in the World Bank's 2023 "A Look into the Future" report[74].

At the same time, lawyers interviewed as part of the study also pointed out that the court's location itself is highly inconvenient, as the surrounding area is entirely under construction and covered in dust.

"The building is in a very poor location, and to be honest, it is not suitable at all. A significant percentage of the most important cases in the republic are heard in this building. This location is not appropriate for the Anti-Corruption Court, and the road leading to it needs to be fixed in some way[75]."

74. World Bank, "Armenia, Supporting Justice Sector Reforms, "A Look to the Future", 2023, https://cutt.ly/XeXXAN7l

75. Quote from an expert interview.

"First and foremost, the court's location is extremely inconvenient. The road leading to the court is an unpaved, pothole-filled path, and there are no dining options nearby. Given that judges schedule hearings for an entire day and allow only a one-hour break, this break is in no way sufficient for rest or dining in the court's vicinity[76]."

Problem 9. Incorrect resolution of the issue of legal costs by the court

In one of the examined court cases, the issue of court expenses was incorrectly resolved. In case ACC/0007/02/23, according to the information presented in the ruling, the Prosecutor General's Office of the Republic of Armenia paid a state duty when filing a claim with the court of first instance. However, the Anti-Corruption Court did not address the already paid state duty in its ruling.

According to Article 192 of the Civil Procedure Code of the Republic of Armenia, the concluding part of a judgment must include, among other things, the findings of the court of first instance regarding the distribution of court expenses among the parties involved in the case.

Court expenses consist of state duties and other costs related to the trial. These expenses are distributed among the parties in proportion to the claims that have been satisfied.

According to Clause 15, Part 1, Article 22 of the Law of the Republic of Armenia on "State Duty," prosecutorial bodies are exempt from paying state duty for claims aimed at protecting public interests.

In the section titled "Court's Reasoning and Findings Regarding Court Expenses," the court stated:

"In this case, the court expenses consist solely of the state duty, from which the plaintiff is exempt by law. Since the claim is subject to rejection, the court finds that the issue of court expenses should be considered resolved."

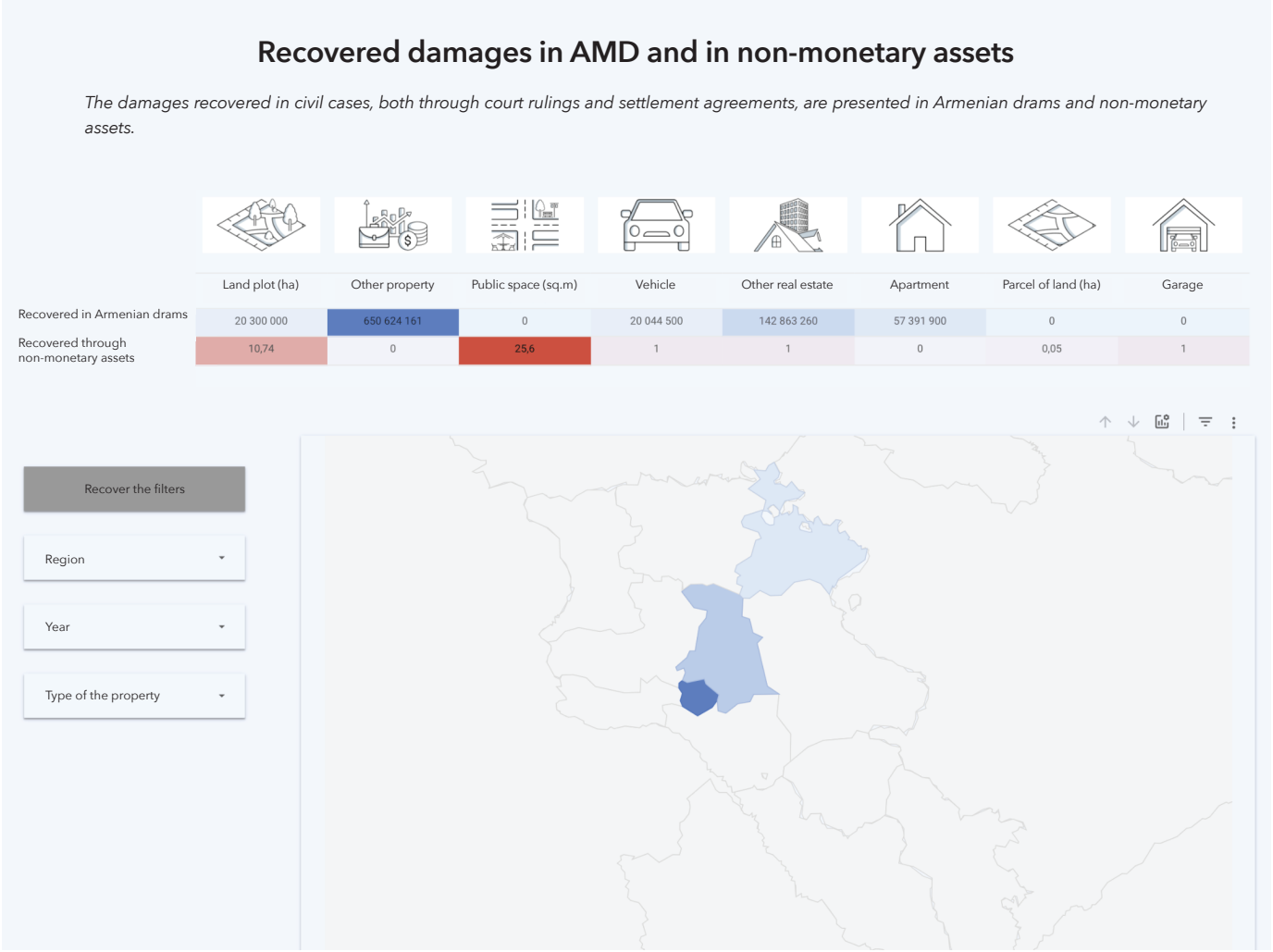
However, the ruling also states that when applying to the court of first instance, the RA Prosecutor General's Office paid 32,637 AMD as a state duty. The Anti-Corruption Court did not address the fact that the state duty had already been paid. At the same time, there is no indication in the ruling that the paid state duty was refunded.

3.2 Results of the Quantitative Research of Judicial Acts

The data presented below reflect the outcomes and overall situation regarding both civil and criminal cases heard in the Anti-Corruption Court of the Republic of Armenia as of August 2024.

76. Quote from an expert interview.

Since court case data are continuously updated on JusticeBarometer.am, the information provided in this report may not fully correspond to the most recent data available on the platform. Additionally, this report does not include information on damages caused to the state or damages restored in kind. The damages recovered through court rulings and settlement agreements in civil cases are displayed in a more interactive and accessible format (RA map) on the JusticeBarometer.am website.

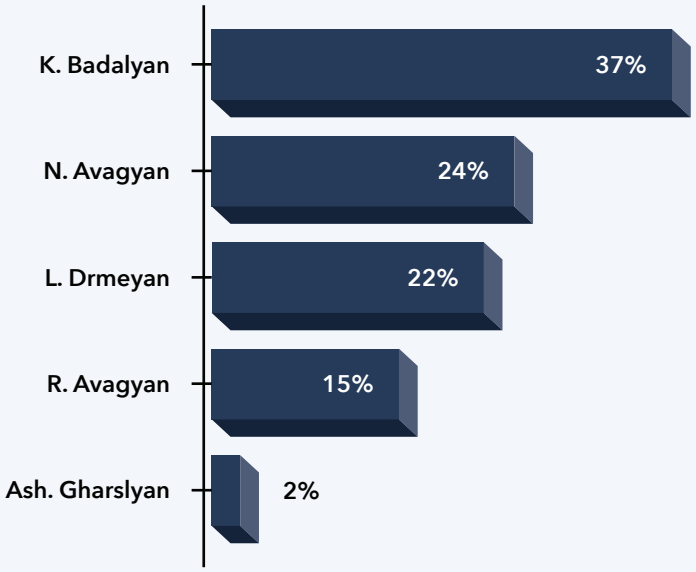


Civil cases

As part of the study, 87 civil cases with final judicial acts issued by the court of first instance in 2023-2024 were examined. The majority of the rulings, 71% (62 cases), were issued in 2023, while 29% (25 cases) were issued in 2024.

The distribution of judicial acts by judges is presented in the bar chart below.

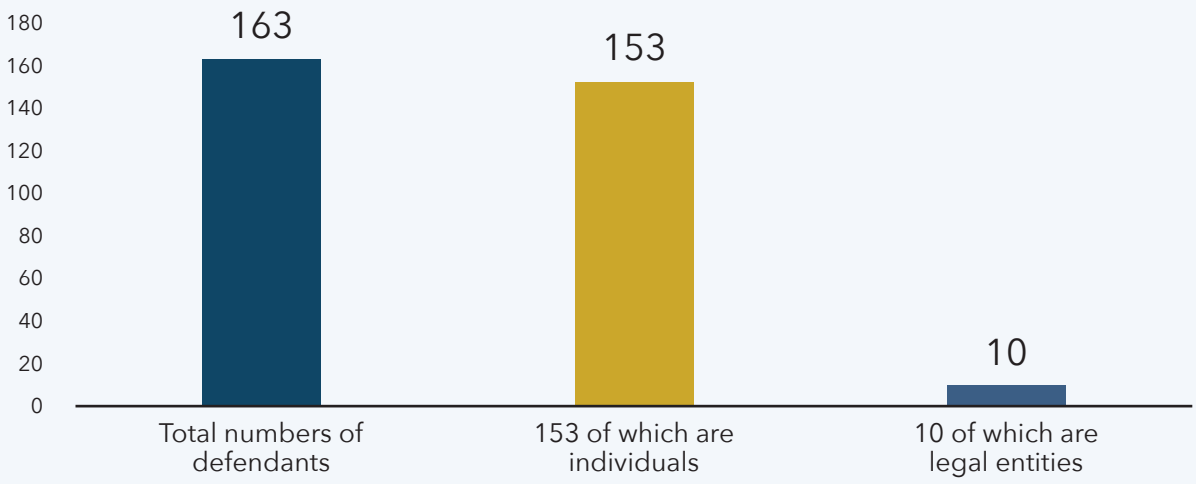
Figure 1. **Judicial acts by judge**



It is important to highlight that the bar chart reflects the distribution of all civil cases handled by the Anti-Corruption Court from its establishment in 2022 until August 2024. Several factors influence this distribution, such as: the start date of a judge's tenure, the frequency of leaves or vacations, and professional commitments, such as participation in training programs.

The distribution of respondents across all examined cases is presented in the next bar chart. It clearly shows that the overwhelming majority (94%) of respondents are individuals.

Figure 2. **Defendants, including legal entities and individuals**



The court dismissed 13% of all submitted claims on the grounds of expired statute of limitations[77]. Whether this percentage is high or low is a matter of separate discussion, depending on the criteria used for evaluation.

Regardless of how concerning the volume of dismissed claims may be, it is essential to address public concerns regarding these cases. In particular, identifying and publishing common reasons for missing the statute of limitations would:

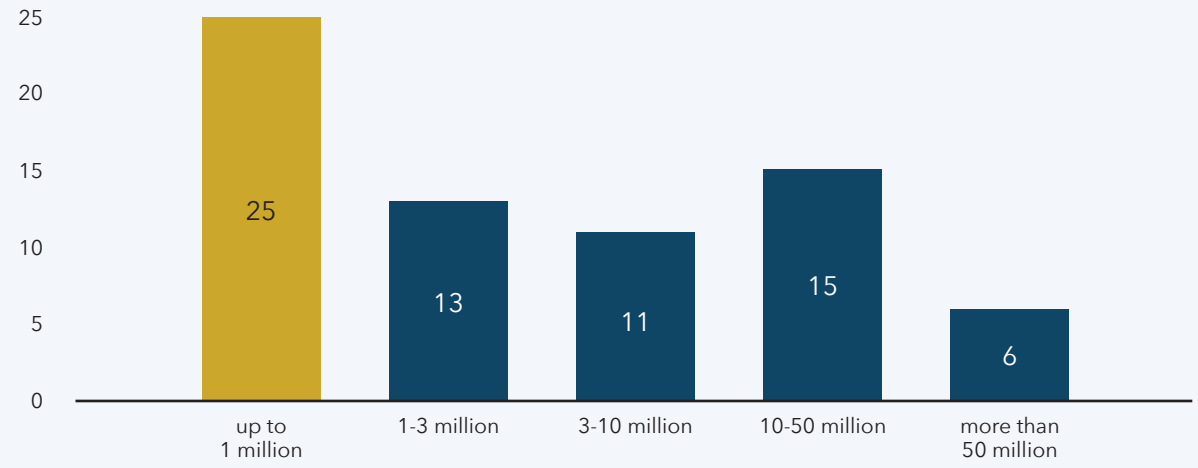
- Help the prosecution improve the efficiency of case preparation.
- Provide the public with a clearer understanding of the phenomenon, thereby enhancing trust in the law enforcement system.

A claim for compensation of damages to the state was present in 76% of the examined cases.

The total amount of the claims in all amounted to 8,814,588,370 AMD. The next bar chart illustrates the distribution of cases based on the claimed amount.

Particularly, in 25 cases, the claim amount did not exceed 1 million AMD, in 6 cases, the claim exceeded 50 million AMD.

Figure 3. **Claims for damages by case**

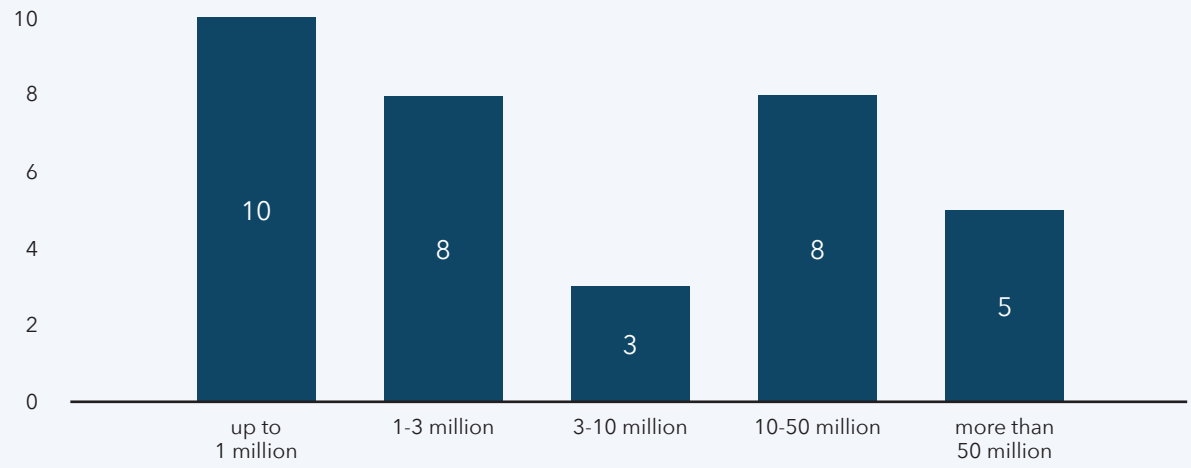


The court, as a result of the case examination, ruled in favor of the Republic of Armenia and ordered the respondents to reimburse damages caused to the state amounting to 7,466,886,885 AMD. The number of similar cases (where damages caused to the state have been fully or partially recovered) is 34, or 39% of all cases.

The next bar chart shows the number of cases based on the amount of recovered damages.

77. The issue of the necessity and expediency of implementing legislative amendments regarding the statute of limitations is currently being discussed.

Figure 4. **Number of cases by amount if recovered damages**



The data from the bar chart is particularly interesting for the cases where the amount of damage is relatively large, over 50 million AMD. Comparing the 3rd and 4th bar charts, it becomes clear that in 5 out of 6 similar cases, the court has issued a decision regarding the recovery of damages, which can be highly valued from an efficiency standpoint.

The amount of recoverable damages made up 84.7% of the total damages (claim amount: 8,814,588,370 AMD, with the recoverable amount being 7,466,886,885 AMD).

Interestingly, although only 5[78] of the examined cases were concluded through a settlement agreement, the amount of damages recovered in these cases is quite substantial: 2,707,634,065 AMD[79].

Thus, the damages recovered in just 5 settlement cases make up about 36.3% of the recoverable damages in the remaining 82 cases. Additionally, the practice of settling cases through agreements significantly saves both human resources and time, as well as the financial expenses of all parties involved. These circumstances testify to the effectiveness of the settlement agreement institution.

It is also a stable practice that settlement agreements between the parties are generally approved by the court. To date, there have been no settlement agreements rejected by the court. This is confirmed both through the judicial acts examined in this study and by the data obtained from the response to the inquiry sent to the Office of the Prosecutor General of Armenia.

78. By the way, in all the mentioned cases, the court granted the parties' application to conclude a settlement agreement.

79. It is important to mention again that only the amount of the recovered amount is reflected here, in Armenian drams. The volume of property returned to the state is reflected in the map of Armenia available on the JusticeBarometer.am website.

Despite this, the institution of settlement agreements is still not widely applied. Representatives of the Prosecutor General's Office of Armenia attribute this mainly to the differences in approach between the parties and the prosecutor's office regarding the volume of illegal property (disagreement).

Table 1 presents several data points obtained through an inquiry to the Prosecutor General's Office of Armenia, which show that the volume of financial resources returned through lawsuits aimed at protecting state interests from 2018 to 2022 has mostly not exceeded even one percent of the damages caused to the state. On average, this amount has been 0.25% per year, which is a negligible portion of the damages caused.

In 2023, there was a significant increase in the effectiveness of this legal mechanism, with the recovered damages constituting more than 5% of the damages caused.

Emphasizing the key role and importance of the Prosecutor General's exclusive constitutional authority to file lawsuits for the protection of state interests outside the criminal domain, the Prosecutor General of Armenia instructed, starting in September 2022, to take measures to identify the circumstances necessary for filing lawsuits to protect state interests. This led to the clarification of the "Law on the Prosecutor's Office" through amendments and

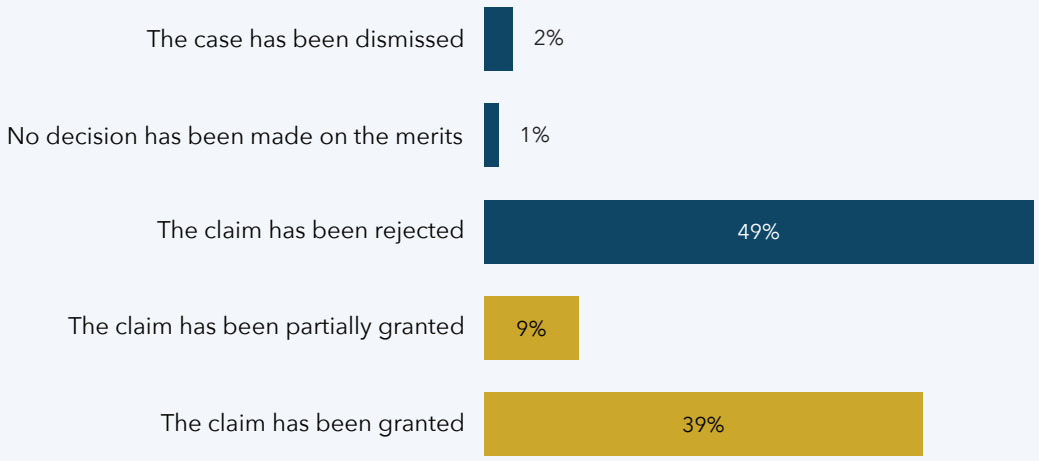
Table 1. Damage caused to the state and financial resources returned through the protection of state interests from 2018 to 2023.

Year	Damage caused to the state (AMD)	Amount of financial resources returned to the state (AMD)	Proportion of returned funds to the damage caused (%)
2018	11,353,601,000	9,252,000	0.081%
2019	1,067,000,000	8,511,000	0.798%
2020	12,225,284,000	10,939,000	0.089%
2021	8,063,184,900	22,061,000	0.274%
2022	61,084,059,000	11,106,000	0.018%
2023	98,983,559,000	5,063,193,000	5.11%

The distribution of decisions made as a result of the trial is presented in the next chart, which shows that the proportion of claims granted (in full or partially) and claims rejected is almost equal, 48% and 49%, respectively[80].

Of course, each case examined is unique with its factual circumstances, but these numbers may indirectly indicate that the court at least does not follow a "prosecutorial approach" and does not grant all claims presented by the prosecution without exception. This is one of the frequently presented critical views of the Armenian judicial system, and the fact that the outcomes of civil cases in the Anti-Corruption Court reflect a balanced picture is a positive aspect.

Figure 5. **The decision made as a result of the trial**



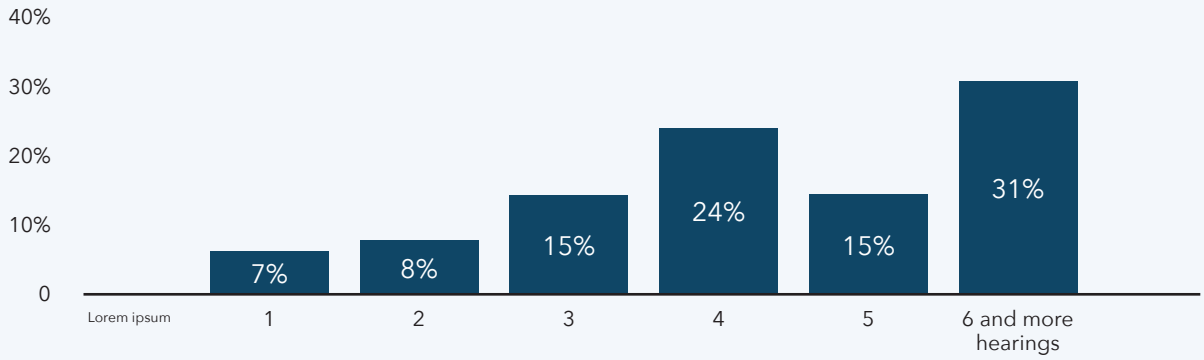
The chart presented is notable for the cases (1%) where the court decided to leave the claim without examination. The court justified this decision by pointing out that the plaintiff, a representative of the prosecution, was notified of the time and location of the court hearings but did not attend. Furthermore, the plaintiff did not submit a request to postpone the hearing or to conduct the trial in their absence, and the defendant did not submit a request to continue the trial. As a result, these cases were left without examination based on Article 180, Part 1, Clause 11 of the Civil Procedure Code of the Republic of Armenia.

In all 87 cases examined, 391 court hearings took place, meaning that on average, each case involved 4.49 hearings.

80. It should be noted that the statistics here do not distinguish between satisfied and rejected claims for the confiscation of illegal property, given the limited number of cases concluded with such claims. The statistics presented apply to all types of claims.

The next chart shows the distribution of court cases based on the number of hearings held for each case. As we can see, in 30% of the cases, only one, two, or three hearings took place. Almost the same proportion of cases (31%) involved six or more hearings.

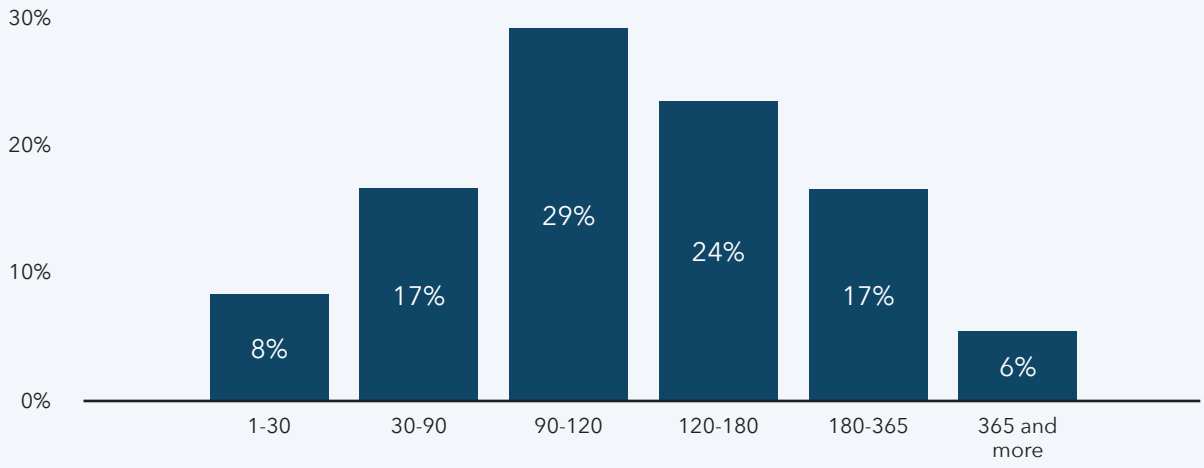
Figure 6. **Distribution of court cases by number of hearings**



The next, 7th chart shows that in 6% of the cases[81], the trial lasted more than a year, while in 17% of the cases, the trial was completed within a period of six months to one year (180 to 365 days).

The vast majority of cases, approximately 78%, were concluded within six months. Furthermore, there are many cases where the trial was completed in just two, three, or four months.

Figure 7. **Duration of the trial (day)**



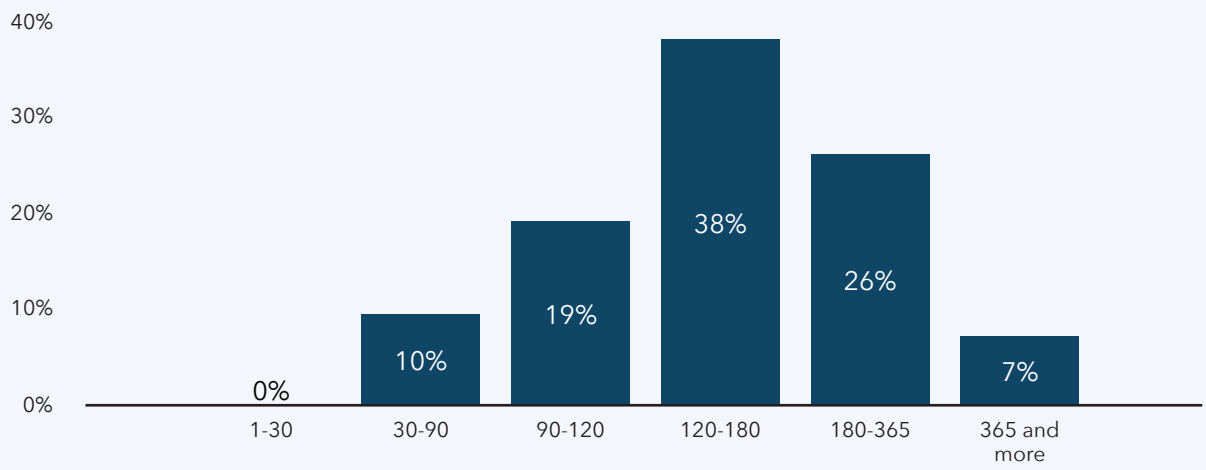
81. From the moment a trial is scheduled until the final judicial act is issued.

By comparing both the duration of the trials and the number of court sessions held, along with the results from expert interviews and the timeframes for case hearings in other courts in Armenia, it can be argued that the Anti-Corruption Court handles cases more efficiently, and the reasonable timeframes are maintained.

The duration for accepting a case into the court's jurisdiction (from the time the case is assigned to the Anti-Corruption Court for consideration to the decision to accept the case into jurisdiction and/or[82] hold a preliminary hearing) is shown in the 8th chart.

In a significant number of cases (38%), the process of accepting the case into jurisdiction takes between 4 months and 6 months. It is also notable that in 26% of cases, the duration for accepting the case into jurisdiction is longer, ranging from six months to one year. Finally, there is a considerable number of cases (7%) where the duration for accepting the case exceeds one year.

Figure 8. **Decision of the court to accept the case for proceedings (day)**



Thus, although we saw above that the Anti-Corruption Court generally adheres to reasonable timeframes for case hearings, these timeframes should also take into account the duration for accepting cases into the court's jurisdiction, which, in the vast majority of cases, are not particularly swift. In 71% of cases, the time taken for accepting the case exceeds four months.

Of course, this also has some objective reasons. Some cases had already started being examined in the first instance courts of Armenia, and their transfer to the newly established

82. By the judge who issued the judicial act.

Anti-Corruption Court objectively required additional time. After the completion of this transitional period, the timeframes for accepting cases into jurisdiction have become more compact.

A simplified procedure was applied in every fifth case (21%).

A cassation appeal was filed in 57% of the cases involving a judicial act. 78% of all filed appeals were accepted for consideration.

In the majority of cases (70%), the prosecutor's office filed the appeal, while in 22% of cases, the defendant filed it. A few cases had both the prosecutor and the defendant filing appeals.

At the end of the study, in August 2024, 31 cases had already received decisions from the appellate court.

The distribution of case resolutions from the appellate review is as follows:

- In 11 cases, the decision of the lower court was annulled, and the case was sent back for a new hearing.
- In 11 cases, the lower court's decision was upheld.
- In 7 cases, the lower court's decision was modified.

In individual cases:

- In some instances, the decision was annulled and sent for new examination, while in others, the decision was upheld.
- The court's decision was annulled, and the settlement agreement between the parties was approved.

A cassation appeal was filed in one-third of the appellate court decisions (10 cases). The vast majority of these (9 cases) were filed by the prosecutor's office, with only one appeal filed by the defendant.

Criminal Cases

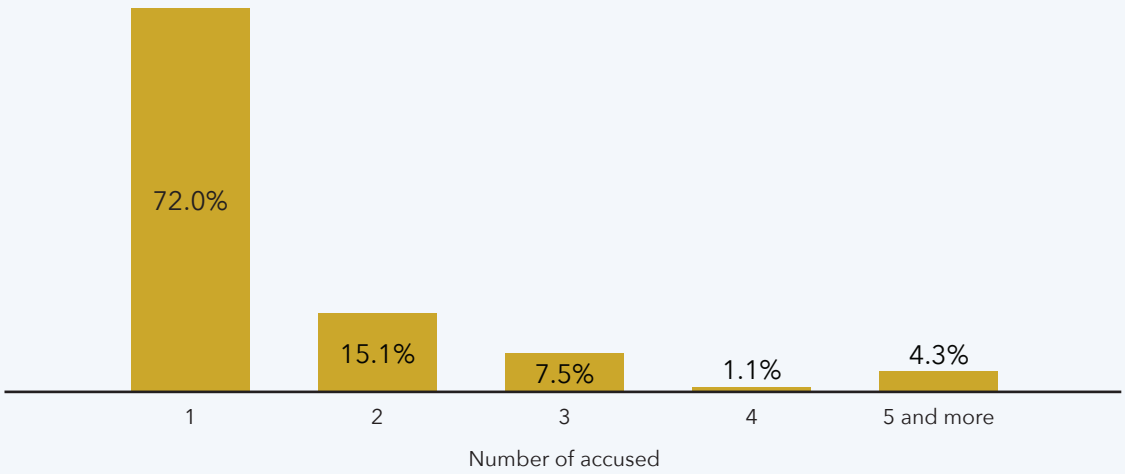
As part of the study, 97 criminal cases finalized by first-instance courts in 2022-2024 were examined. These cases involved 169 defendants.

In all the cases studied, the total damage caused amounted to 71,801,199 Armenian drams. This figure is significantly smaller than the damage claims in civil cases (it doesn't even exceed one percent of that amount).

Notably, in the overwhelming majority of criminal cases, approximately 80%, the damage was fully restored, while in the remaining rare cases, it was restored partially.

The 9th chart presents the average number of defendants in each case, showing that in the vast majority of cases (72%), there is only one defendant involved. In 22.6% of the cases, two or three defendants are involved. Finally, in 4.3% of the cases, there are five or more defendants.

Figure 9. **How many defendants are there in each case?**

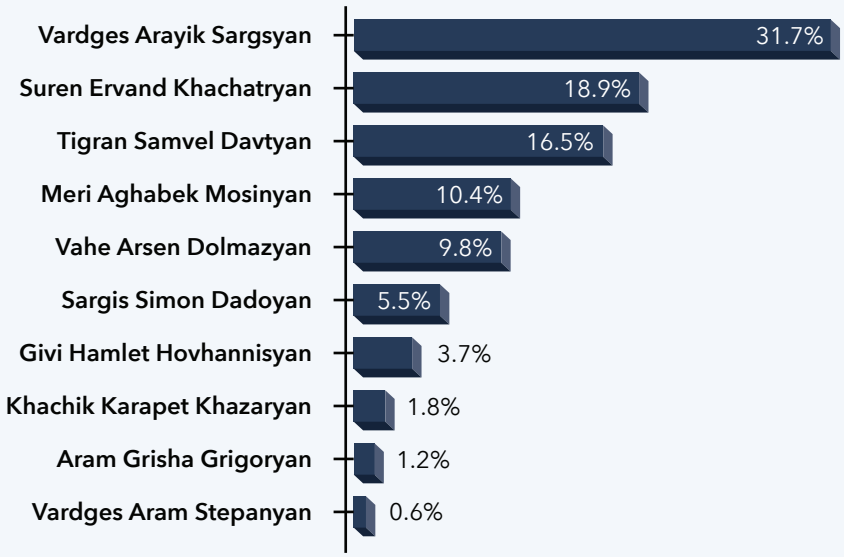


Unlike civil cases, where the key units of analysis are mainly the court cases themselves, in criminal cases, the data has been analyzed both by court cases and by defendants. In addition to the court cases, the analysis of quantitative data related to the defendants is due to the fact that the sentencing policy is individualized, and the court's stance is expressed regarding each defendant and their actions.

The overwhelming majority of the studied judicial decisions—72%—were made in 2023, 23% in 2024, and only 5% in 2022.

The distribution of the judicial decisions according to the judges is presented in the chart below.

Figure 10. **Decision of the court to accept the case for proceedings**

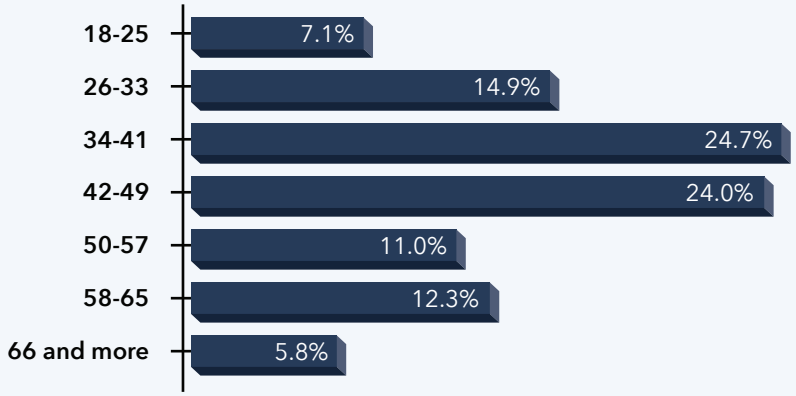


As with civil cases, it is important to emphasize that the chart reflects the distribution of all criminal cases examined during the period from the start of the Anti-Corruption Court's activities (2022) until August 2024. The various factors affecting the distribution (such as when a particular judge began their work, how frequently they took leave, etc.) are not accounted for in this chart.

84.8% of the defendants are men, and 15.2% are women.

The age distribution of the defendants at the time of the verdict is presented in the chart below. As we can see, the largest age groups are those between 34-41 and 42-49 years old, with almost equal representation.

Figure 11. **Distribution of defendants by age group**

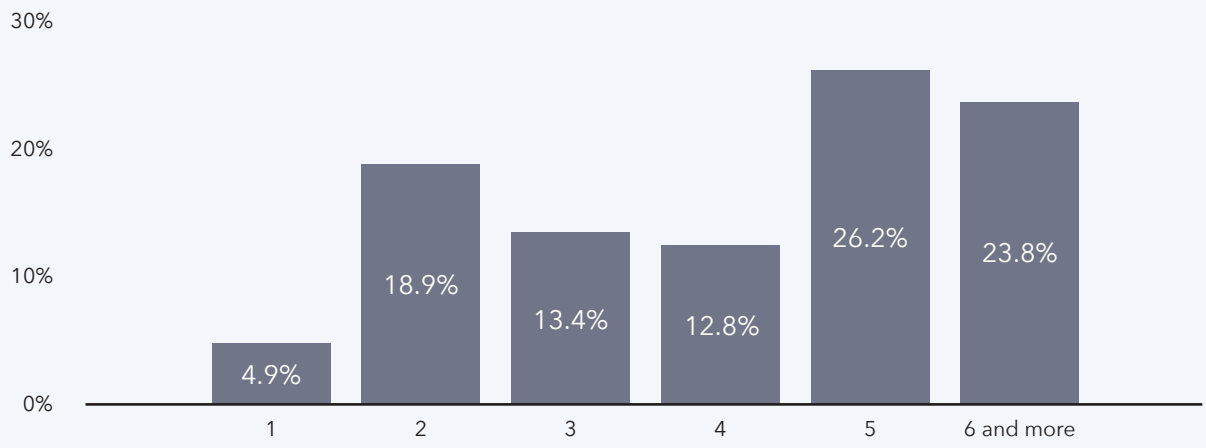


On average, 5.2 court hearings have been held for each examined criminal case. As we saw earlier, the average number of hearings in civil cases is lower, at 4.49 hearings.

The next chart shows the distribution of court cases based on the number of hearings held for each case. As we can see, about 37% of the cases involved only one, two, or three hearings.

A significant portion of the cases (23.8%) had six or more hearings. For comparison, in civil cases, 31% had more than six hearings.

Figure 12. **How many court hearings have been held in the case?**

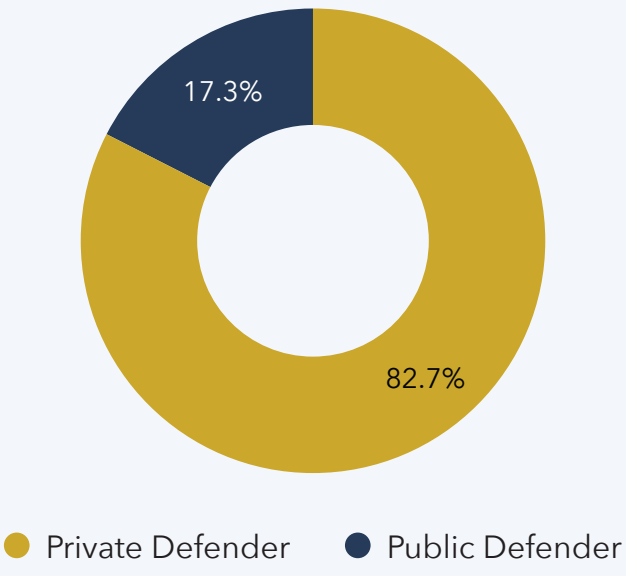


The duration of accepting a case into proceedings (from the submission of the case to the Anti-Corruption Court until the decision on accepting the case into proceedings and/or holding the preliminary hearing) averages around 32 days.

The duration of the case examination (from the scheduling of the trial to the final court ruling) is approximately 175 days, or about half a year.

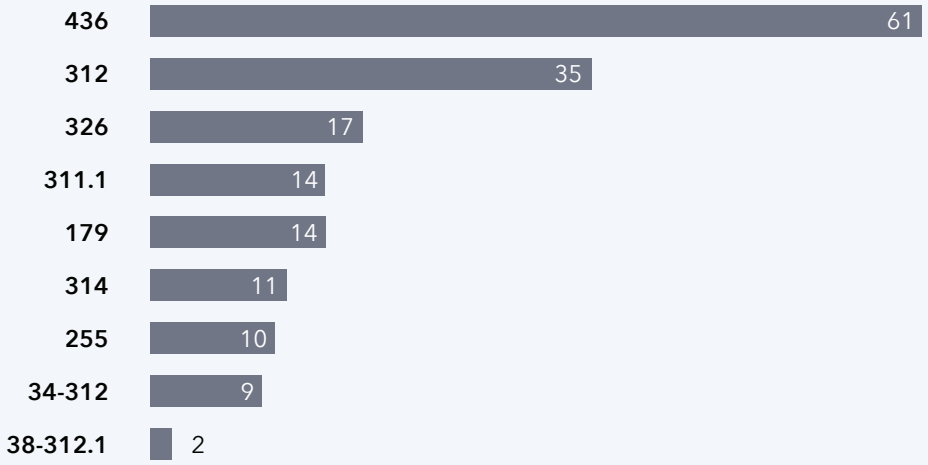
The ratio of public to private defenders for the defendants is shown in the next chart, revealing that only every 6th defendant had a public defender.

Figure 13. **Involvement of Public and Private Defenders**



The following chart shows the prevalence of Criminal Code articles in all cases examined.

Figure 14. **The 10 most frequently encountered articles of the Criminal Code**



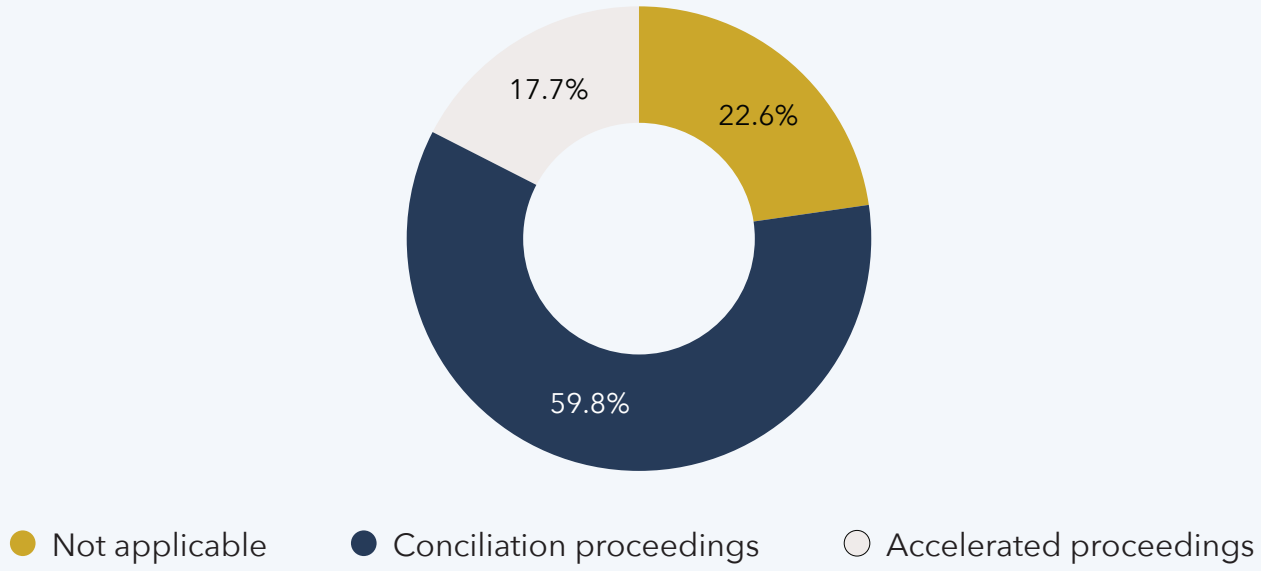
The most commonly encountered articles are:

- Article 436. Bribery (qualification of the act, under the Criminal Code adopted in 2021 and currently in force),
- Article 312. Bribery (qualification of the act, under the previous Criminal Code)[83],
- Article 326. Illegal acquisition or use of official documents (under the previous Criminal Code),
- Article 311. Receiving a bribe (under the previous Criminal Code),
- Article 179. Embezzlement or misappropriation (under the previous Criminal Code),
- Article 314. Official forgery (under the previous Criminal Code).

Figure 15 shows the distribution of procedural types applied in all examined cases. In 22.6% of the cases, no specific procedural type was applied, while the majority, 59.8%, were processed under the plea bargaining procedure, and 17.7% under the expedited procedure.

83. In some of the cases, the numbers of the relevant articles of the previous Criminal Code adopted in 2003 and now repealed are used, in the other part of the cases, the names of the relevant articles of the Criminal Code adopted in 2021 and currently in force are used. This difference is probably due to the fact that which code was in force during the initial investigation of the case.

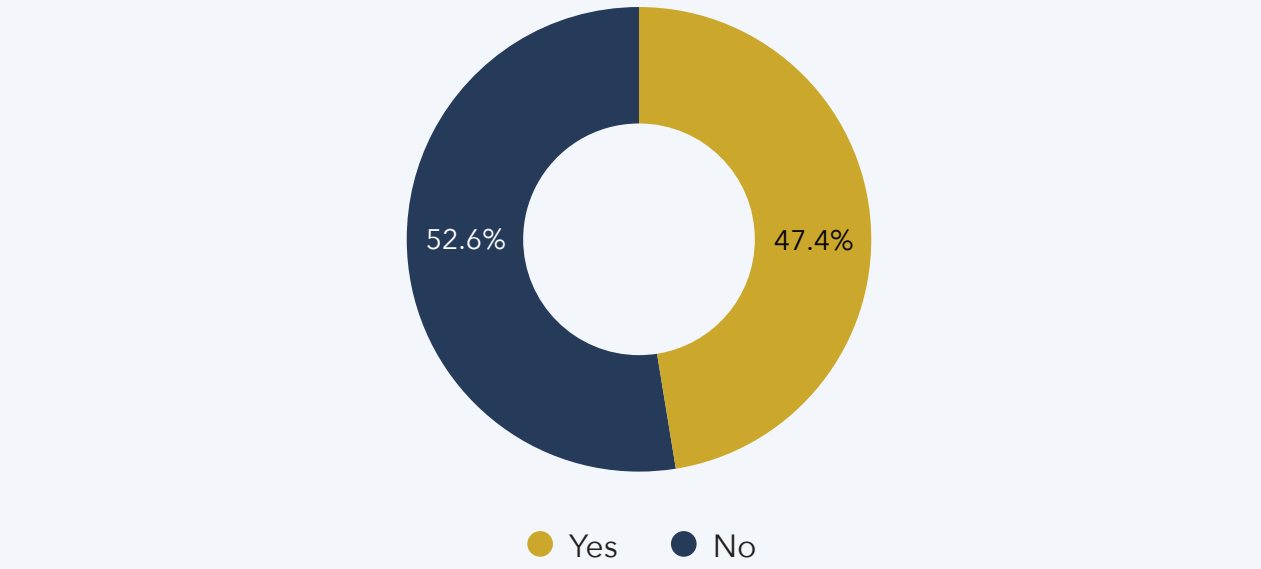
Figure 15. **Types of applicable proceedings**



A guilty verdict was rendered against 94% of the defendants, and an acquittal verdict was rendered against 6%[84].

The sentence was not conditionally applied to 47.4% of the defendants.

Figure 16. **Conditional non-application of punishment to the accused**



84. Only cases where either an acquittal or a conviction was reached were considered here. Cases that were dismissed are not included in the presented calculation. These statistics (including dismissed cases) are available on the aforementioned website, JusticeBarometer.am.

According to Articles 56 and 57 of the Criminal Code of the Republic of Armenia, the following types of punishment can be imposed as the main penalty:

- Public works,
- Restriction of liberty,
- Short-term imprisonment,
- Detention in a disciplinary battalion,
- Imprisonment,
- Life imprisonment,
- Fines,
- Deprivation of the right to hold certain positions or engage in specific activities,
- Limitation in military service.

In the examined court decisions, only five of these penalties were applied to the following number of defendants:

1. Imprisonment – 77 defendants,
2. Fine – 60 defendants,
3. Short-term imprisonment – 11 defendants,
4. Deprivation of the right to hold certain positions or engage in specific activities – 5 defendants,
5. Limitation in military service – 1 defendant.

An appeal was filed in 24.7% of the cases, or in relation to every fourth defendant. In comparison, an appeal was filed in 57% of the decisions in civil cases.

In the majority of cases (about 68%), the prosecutor filed the appeal, while in 25% of the cases, it was the defendant. In three cases, both the defendant and the prosecutor filed an appeal.

Among the prosecutor's appeals, a significant portion is from cases that were processed under the expedited procedure.

At the time of conducting the research, the overwhelming majority of the filed appeals were accepted for review, while information on a few appeals being accepted for review was not yet available in the Datalex system.

As of August 2024, the decision of the appellate court was available for 23 defendants.

The distribution of outcomes in the appellate review is as follows:

- In 19 cases, the lower court's decision was upheld.
- In 4 cases, the lower court's decision was changed.

A cassation appeal was filed for 15 of the appellate court's decisions. In the vast majority of these cases (14 cases), the appeal was filed by the prosecutor, and in only one case, it was filed by the defendant.

Seven of these cassation appeals were accepted for review, while six were rejected. No information was available on the remaining cassation appeals.

Conclusions

1. The new Criminal Code, which came into force in 2022, has significantly expanded the scope of subjects involved in corruption-related offenses, including employees from both the public and private sectors, contributing to a more comprehensive fight against corruption.
2. The removal of the incentive provision that allowed for exemption from criminal liability for corruption-related offenses under the new Criminal Code may reduce the detection of corruption crimes. Although the previously used three-day period for this incentive mechanism was too short, the legislative flaw should have been addressed by extending the time frame rather than completely eliminating the provision.
3. When determining the subject matter jurisdiction of the Anti-Corruption Court in civil cases, the focus is placed not on the nature of the dispute but on the subject composition, particularly the fact that the Prosecutor's Office is the plaintiff in cases involving damage caused to the state. The application of this criterion has not been consistent and has failed to ensure uniformity in the policy. As a result, cases filed by the Prosecutor's Office to protect state interests have not been assigned to the Anti-Corruption Court's subject matter jurisdiction. On the other hand, the participation of the Corruption Prevention Commission in judicial disputes has not been evaluated when determining the jurisdiction of the Anti-Corruption Court.
4. The appointment of judges who have received negative conclusions regarding their moral character without making the results of those evaluations public may hinder the formation of public trust in both the Anti-Corruption Courts and the Corruption Prevention Commission.
5. A large number of former judges are involved as judges in the Anti-Corruption Court of Appeal and the Cassation Court, while former prosecutors and investigators are primarily involved in the first-instance court. The number of individuals with prior experience in the judicial system (such as judicial assistants) is also noticeable among the first-instance judges.
6. The issue of the publicity of judicial acts, especially in the Anti-Corruption Court, poses a serious challenge to ensuring transparency in judicial processes. Although the publication of acts is required by law, their accessibility is often disrupted due to technical issues.
7. Published judicial acts do not always adequately protect the personal data of the parties, and personal information such as passport details is often exposed.
8. In the Anti-Corruption Court, as a rule, there are no unnecessary delays in the examination of cases. Hearings are frequently scheduled, and any postponements occur mainly due to objective reasons.

9. Some court cases are delayed for up to a year due to disputes between courts regarding subject matter jurisdiction.
10. The mechanisms for resolving issues of subject matter jurisdiction as outlined in the Civil Procedure Code and the Criminal Procedure Code can be considered unconstitutional, as they are not provided for by and do not align with the "Judicial Code of the Republic of Armenia," a constitutional law. Moreover, the decisions made regarding subject matter jurisdiction are non-appealable, and the parties to the proceedings are not involved in the discussions.
11. The extension of the period for studying the legality of the origin of assets under the Law on the Seizure of Illegally Originated Property to a period of ten years, up to 1991, practically creates problems due to the absence of evidence. Extending the investigation period without clear justification leads to legal unpredictability and hinders fair trial proceedings.
12. The application of the same (repetitive) precedents in judicial decisions often has a formal nature. In cases where the factual circumstances of the case are not taken into account for the application of the precedent, the precedents used merely overload the text of the judicial act without adding value.
13. Anti-corruption cases often require economic, financial, or technical expertise; however, the requests for financial and economic expertise are usually rejected by anti-corruption courts, and these courts are not staffed with the necessary specialists.
14. Often, the court decides to consider the case under simplified procedures without properly notifying the defendant. As a result, the case is examined in the absence of the defendant, who only learns of the judicial act after it is made. The appellate court often overturns the first instance court's decision due to the defendant not being properly notified.
15. The concentration of anti-corruption courts only in Yerevan creates problems regarding the physical accessibility and availability of the courts.
16. A significant portion of criminal cases—around 60%—has been examined under the negotiated procedure, and approximately 18% under the accelerated procedure. A conviction has been made in 94% of cases, and acquittals in 6%. In 47.4% of cases, the punishment was not applied conditionally.
17. In civil cases, the court has ruled to seize damages caused to the state from the defendants in the amount of 7,466,886,885 AMD. Thus, the recovered damage represents 84.7% of the total claim amount in all cases, which was 8,814,588,370 AMD.
18. In civil cases, settlements between parties are generally confirmed by the court. Up until now, there have been no settlements that were not confirmed by the court.

19. The amount of damages recovered in cases concluded by settlement agreements is quite significant—2,707,634,065 AMD, which constitutes about 36% of the damage recovered in all other examined cases. The practice of concluding cases by settlement agreements allows significant savings in human resources and time, as well as the financial costs of all parties. Although these aspects testify to the effectiveness of the settlement agreement institution, its widespread use is still limited. Representatives of the RA Prosecutor General's Office explain this primarily by the differences in the parties' and the Prosecutor's approach concerning the volume of illegally obtained property.
20. In civil cases, the proportion of granted claims (either in full or partially) and rejected claims is nearly equal—48% and 49%, respectively[85]. These figures indirectly suggest that the court does not follow a "prosecutorial approach" (a frequent criticism of the Armenian judicial system) and does not accept all claims presented by the prosecutor's office. Thus, the outcomes of civil cases in the anti-corruption court present a balanced picture.
21. Although the examination periods for cases in the anti-corruption court are relatively short, and reasonable deadlines are mostly adhered to, the time for accepting the case for consideration is prolonged. For a significant portion of civil cases (38%), the time for case acceptance (by the judge who issues the final decision) lasts from 4 to 6 months. A notable number of cases (26%) take longer to accept—between half a year to one year. Finally, some cases (7%) take more than a year to be accepted.
22. The process from the decision to accept the case to the scheduling of the first hearing is also lengthy, due to delays in enforcement actions (depending on the imposition of restrictions on assets by the Bailiff Service and the completion of enforcement proceedings).

85. It should be noted that the statistics here do not distinguish between satisfied and rejected claims for the confiscation of illegal property, given the limited number of cases concluded with such claims. The statistics presented apply to all types of claims.

Suggestions

1. Reinstate incentives for corruption cases with extended deadlines (instead of the previous three-day period, a longer time frame should be provided). A new provision should be established in the Armenian Criminal Code stating that individuals who offer bribes can be exempt from liability if their voluntary testimonies contribute to uncovering corrupt schemes and criminal activities.
2. Discuss the scope of cases assigned to the Anti-Corruption Court and review the current criteria, ensuring their objective nature and the unity of the policy. Discuss the possibility of examining certain cases involving the Corruption Prevention Commission within the Anti-Corruption Court.
3. Clarify the procedure for presenting proposals to file lawsuits by the Prosecutor's Office for the protection of state interests, including the process for submitting such proposals to the relevant state or local self-government body. It is advisable to establish a specific time frame for filing a lawsuit after receiving a proposal from the Prosecutor's Office, instead of allowing for an "reasonable" period.
4. Ensure the publication of conclusions by the Corruption Prevention Commission regarding individuals who have received a negative evaluation concerning ethics but are appointed to judicial positions.
5. Update the Datalex system to ensure public access to court decisions and judicial transparency, incorporating technical risk management mechanisms. Ensure the publication and public availability of judicial acts within the legally defined time frames.
6. Ensure the protection of personal data concerning participants in the proceedings in publicly available judicial acts.
7. Replace the provisions related to resolving disputes on the subject matter of civil and criminal procedures with new ones that meet the requirements of the Constitution and are reflected in the "Judicial Code" constitutional law. Ensure the participation of the parties in the resolution of disputes regarding the subject matter of the proceedings.
8. Establish legal guarantees and control mechanisms to prevent unnecessary delays in the examination of cases due to issues with resolving the subject matter of the proceedings.
9. Examine the grounds and justifications for rejecting requests for expert examinations by the Anti-Corruption Court. Evaluate the impact of such rejections on the adversarial nature of the proceedings.
10. Reconsider the "Forfeiture of Property of Illegal Origin" law to fully align it with international human rights standards.

11. Reconsider the legislative regulation concerning the ten-year period for investigations and establish clear and justified conditions under which investigations may begin from 1991.
12. Clarify the procedures for applying the statute of limitations in civil cases in the Anti-Corruption Court, specifically regarding the calculation of deadlines and the legal possibility of continuing the investigation in ongoing cases after the expiration of the three-year statute of limitations.