

ILLICIT FINANCIAL FLOWS AND ASSET RECOVERY In The Republic of Armenia

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Foreword

Illicit Financial Flows (IFFs) impact a country's economic and social development in a myriad of ways. Undocumented flights of wealth to and from - as well as within - a country have severe repercussions on government revenues, wealth that could otherwise be invested in public spending and other forms of economic and social reforms. Illicit financial flows, particularly those related to organised crime, also withdraw funds from the legitimate economy and may force the State to divert more resources to prevent and respond to criminal activity or to treat or compensate victims. The drain on resources and tax revenues caused by IFFs blocks the expansion of basic social services and infrastructure programs that are targeted at improving the wellbeing and capacities of all citizens, in particular, the very poor.

IFFs in many developing countries mean fewer hospitals, schools, police, roads and job opportunities, as well as lower pensions. It is for these reasons that States must place significantly higher priority on seizing and confiscating illicitly-obtained assets, and to channel such recovered assets to high-priority development needs.

New paradigms and policies to counter IFFs must be established to produce an unbroken chain of work from tracing, freezing, seizure, confiscation and recovery of illicitly-obtained assets, through transparent management and liquidation of such assets, to distribution of the proceeds to high-priority development needs. It is this mechanism and paradigm that will enable countries to capture billions in assets and to directly channel them into, for example, more schools, hospitals, community clinics and infrastructure, as well as the much-needed payment of salaries for teachers, nurses and doctors. Such policies also can enable States to significantly reduce youth unemployment. All of these are key factors to a country's development.

In light of the above, the European Union and the United Nations Interregional Crime and Justice Research Institute (UNICRI) are proud to launch a series of studies on Illicit Financial Flows and Asset Recovery. These studies shed light on the significant damage being caused to States as a result of unchecked IFFs, and on the significant value of prioritising the capture of illicitly-obtained assets linked to such IFFs. The EU and UNICRI are committed to providing key support and expertise needed by States to more effectively respond to IFFs. In creating and implementing more effective responses, many of which are identified in the recommendations of these reports, States will be able to weaken the influence of organised crime, as well as inject significantly greater funding into high-priority development needs.



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Executive Summary:

Organised crime produces significant amounts of illicit revenue and proceeds globally and in Europe. Despite the fact that the overall crime rate in Armenia is lower than many Western European countries, the country's strategic location at the crossroads of Europe, the Middle East and Asia is attractive to organised criminal groups. And while it is difficult to accurately estimate the level of proceeds-generating crime, key areas of concern identified in this study include money laundering, drugs and human trafficking and corruption. Transparency to promote the integrity of public sector and an increased focus on the seizure, confiscation and recovery of illicitly-obtained assets, are therefore essential.

Despite not having yet established a dedicated Asset Recovery Office (ARO), Armenia has made major improvements in terms of complying with the FATF Recommendations. The country has in fact several subdivisions and independent bodies which are in charge of combating organised crime, money laundering or the financing of terrorism. Many efforts are still required by the international community and an increased focus on the seizure, confiscation and recovery of illicitly-obtained assets is essential. As IFFs in developing countries, such as Armenia, mean fewer hospitals, schools, police, roads, pensions and job opportunities, reinvesting recovered assets into high-priority development needs is key to improving overall socio-economic development.

Key Findings:

- The seizure and confiscation of only 10% of the estimated illicit financial flows circulating in Armenia would allow the country to fully fund the planned reconstruction of the National Centre for Mental Health Care, as well as the construction of nine equipped medical centres and more than 100 rural ambulatory outpatient centres.
- Similarly, this would allow Armenia to pay for the salary of 38,000 teachers for one year, or would enable the government to strengthen and rebuild more than 50 schools, benefitting over 60,000 students.
- Such recovered assets could finance key infrastructure projects, such as the cost of renovating, every year, more than 430 km of roads.
- Armenia should consider adopting and implementing mechanisms for the establishment of a centralised Asset Recovery Office (ARO). This would allow officials with access to different databases to be under the same roof. The ARO would thus produce consolidated reports for law enforcement on the assets held by suspects of serious criminal activity and by their associates, in light of the fact that most who launder assets do not launder them in their own name.
- Given that money laundering cases often take years to adjudicate, consideration should be given to the establishment or strengthening of non-penal mechanisms for the seizure and confiscation of assets (civil confiscation). These mechanisms can significantly reduce the time to confiscate assets, bolstering public confidence in the efficiency of the judicial system, and the transparency in the funding of high-priority development needs.
- Consideration should also be given to strengthening international and regional cooperation on asset recovery and management, particularly through regular face-to-face dialogue with police and prosecutorial focal points in other key countries.
- Strong consideration should be given to adopting, with international technical support, the recommendations laid out in the 2020 report of the Armenian Lawyers' Association and the CSO Anti-Corruption Coalition of Armenia, *Civil Society Report on the Implementation of Chapter II (Prevention) and Chapter V (Asset Recovery) of the United Nations Convention against Corruption*, as this would bolster the Government of Armenia's standing in the fight against corruption and other serious crimes.

Acronyms and Abbreviations

AMD	Dram (Armenian's Currency)
AML/CFT	Anti-Money Laundering/Counteracting Financing of Terrorism
CoE	Council of Europe
EU	European Union
FATF	Financial Action Task Force
FMS	Financial Monitoring Service
GDP	Gross Domestic Product
GFI	Global Financial Integrity
HDI	Human Development Index
IFFs	Illicit Financial Flows
MONEYVAL	CoE Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism
OECD	Organisation of Economic Cooperation and Development
OSCE	Organisation for Security and Cooperation in Europe
SDGs	Sustainable Development Goals
UN	United Nations
UNDP	United Nations Development Programme
UNICRI	United Nations Interregional Crime and Justice Research Institute
USD	United States Dollar
WHO	World Health Organisation

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1. Overview of Illicit Financial Flows and the Recovery of Illicitly-Obtained Assets



1.1 Introduction

This study examines illicit financial flows (IFFs) generated from organised criminal activity in Armenia. It provides an overview of organised crime in the country, and outlines the legislative and operational frameworks in place to combat IFFs and to recover illicitly-obtained assets. Effective asset recovery policy is a fundamental component of combating IFFs and mitigating the harm produced by IFFs.

This study's main objective is to provide targeted recommendations to national authorities, as well as other key stakeholders, in order to create and strengthen mechanisms for the effective and efficient seizure and confiscation of assets linked to organised crime (and, where appropriate, high-level corruption).

The study also provides recommendations to strengthen the effective and transparent management of any recovered assets, including recommendations with respect to directing such assets to high-priority development needs. High-priority needs in Armenia include those within the employment, health, and infrastructure sectors.

The data collection for this study was undertaken from May through October of 2020. Data collection was undertaken through open source desk research, as well as feedback from public officials, members of civil society and other key stakeholders.

Definition of Illicit Financial Flows

There is no consensus regarding the definition of IFFs, as it covers a diverse set of activities and behaviours, reflecting the complex and multifaceted nature of illicit international trade and finance.¹ The absence of a comprehensible and universally adopted definition explains the difficulty in analysing it and, therefore, producing targeted responses. The United Nations Economic Commission for Africa (UNECA) stated that this lack of terminological clarity limits the emergence of effective policy measures.² Another reason for this struggle concerns the statistical feasibility of quantifying IFFs, which is extremely challenging. This is because IFFs, and related crimes, are purposefully hidden or disguised by criminals who are seeking to protect themselves from the interventions of law enforcement agencies. Consequently, attempting to gather reliable information to model criminal actions and the requisite data through which to produce accurate responses is also challenging.³

Notwithstanding these limitations, for purposes of this study and assisting States in developing holistic and useful

responses to the threat, IFFs are defined broadly as the revenue, proceeds and any other assets generated by the following activities:

- **Corruption**, including the proceeds of theft, bribery, graft and embezzlement of national wealth by government officials;
- **Illicit Commerce**, including the proceeds of tax evasion, misrepresentation, misreporting and mis-invoicing related to trade activities, and money laundering through commercial transactions; and
- **Other Serious Crime**, including the proceeds of criminal activities, including human and drug trafficking, smuggling, counterfeiting, racketeering (also known as criminal protection or extortion) and terrorist financing.⁴

This classification, which is a slight alteration from that used by UNECA in 2013, highlights not only the diverse and evolving nature of illicit financial flows, but also the need for multifaceted (holistic) responses that tackle the threat from various angles – e.g., not just a criminal justice response.⁵ The classification also disregards the characterization that IFFs should only be international in nature – significant losses and harms can occur to national economies, healthcare and education systems, and to employment opportunities, even if IFFs occur within a specific country. The dynamic of the forms of IFFs differs from country to country, depending on the illicit flows transiting into, through and out of the country. Still, higher-value illicit flows, such as the trade of narcotics, tend to correlate with higher levels of other criminality, such as corruption.⁶

This study concentrates on the revenue, proceeds and other assets generated from criminal activities in Armenia. Due to the interdependent nature of IFFs, this study also examines assets generated from corruption and commerce to provide a useful framework on IFFs in Armenia. Money laundering is a crucial tool used by organised criminal groups to move illicitly-obtained revenue and to fund criminal activity. There is also a strong link between corruption and organised crime as both are propelled by the same limitations of governance and the law.

Recovery of Illicitly-Obtained Assets

The recovery of illicitly-obtained assets is essential to combating organised crime and IFFs as it deprives criminals of their financial gains and can act as a deterrent against future crimes (by removing the financial motivation of crimes). The recovery of

illicitly-obtained assets can also help mitigate the harmful impact of IFFs through the liquidation and reinvestment of those assets into public welfare and high-priority development needs. For the purposes of this study, the asset recovery process includes the tracing, freezing, seizure, confiscation, and management of illicitly-obtained assets.

Worldwide progress in the recovery of illicitly-obtained assets has been, at best, modest. In 2012, the OECD launched a survey measuring assets frozen and returned between 2010 and June 2012. In this time period, a total of approximately USD 1.4 billion of corruption-related assets had been frozen. In terms of returned assets, a total of USD 147 million were returned to a foreign jurisdiction in the 2010-June 2012 period. These figures pale in comparison to the widely quoted estimate that the aggregate size of money laundering in the world could be somewhere between two and five percent of the world's GDP. In 2009 alone, criminal proceeds were estimated to be at 3.6% of global GDP, with 2.7% (or USD 1.6 trillion) being laundered.⁷

European Union (EU) progress in the recovery of illicitly-obtained assets has also been modest. Europol estimates organised criminal groups have a profit of EUR 110 billion annually in the EU.⁸ Corruption is estimated to cost the EU economy some EUR 120 billion per year.⁹ Europol estimates that about EUR 1.2 billion is confiscated each year in the EU, which represents 0.009% of EU GDP. For a country with a GDP of EUR 200 billion (e.g. Finland in 2014), this amounts to about EUR 17.7 million; for a country with a GDP of EUR one trillion (e.g. Spain in 2014), the figure is about EUR 88.7 million; for a country with a GDP of about EUR 2.2 trillion (e.g. France in 2014), it is about EUR 195.2 million.

For bribery alone, the most widely accepted estimate of global bribery puts the total at around USD 1.5 to 2 trillion each year.¹⁰

Corruption, bribery, theft and tax evasion, and other illicit financial flows cost developing countries USD 1.26 trillion per year. That is roughly the combined size of the economies of Switzerland, South Africa and Belgium, and enough money to lift the 1.4 billion people who get by on less than USD 1.25 a day above the poverty threshold and keep them there for at least six years.¹¹

A USD one million bribe can quickly amount to a USD 100 million loss to a poor country through derailed projects and inappropriate investment decisions which undermine development.¹²

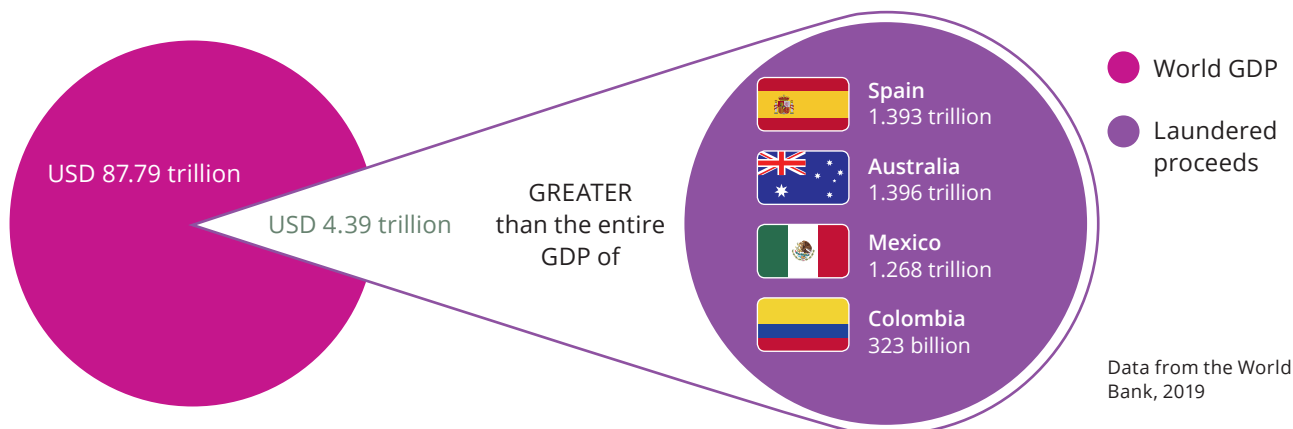
Notwithstanding the above, such estimates should be treated with caution. They are intended to give an idea of the magnitude of money laundering, which represent only a portion of IFFs. Due to the illegal nature of the transactions, precise statistics are not, nor likely ever will be, available and it is therefore impossible to produce a definitive estimate of the amount of money that is globally laundered every year. The Financial Action Task Force (FATF) therefore does not publish any figures in this regard. Still, there is near universal consensus that money laundering and IFFs worldwide undermine most economies as well as development.

Just as IFFs weaken development, the recovery of assets linked to IFFs can enhance development. The recovery of only a small portion of illicitly-obtained assets linked to serious criminal activity – both from abroad and from within a country – can provide developing countries with much-needed additional resources. In this context, prioritising the tracing, seizure, confiscation and recovery of illicitly-obtained assets can, aside from providing a useful deterrent to criminality, fund high-priority development needs, such as those in the health, education or infrastructure sectors.

Many obstacles, particularly in cross-border cooperation to recover assets, have allowed criminal organisations and corrupt officials to take advantage of such weaknesses. Proving that assets are linked to criminal conduct can be a complex and lengthy process, ultimately producing a lack of public confidence in state institutions. Nevertheless, countries that have had the most success in the tracing, freezing, seizure and confiscation of illicitly-obtained assets (whether located abroad or within that particular country) are those that have adopted mechanisms that can accelerate criminal justice processes for confiscation,¹³ as well as mechanisms for non-conviction-based forfeiture of assets.¹⁴

An increasing number of jurisdictions have adopted mechanisms for initiating proceedings for unexplained wealth, or illicit enrichment.¹⁵ Many countries now recognise the value of establishing dedicated Asset Recovery Offices (AROs), essentially offices that house officials with access to multiple databases (e.g., vehicle registry, business registry, tax information, customs database, criminal records). Such AROs, once in place, can take a cross-institutional view of one's assets, as well as the assets held by family members

Estimated annual amount of global laundered proceeds is greater than the entire GDP (2019) of the following countries combined



or associates of those suspected of being involved in serious criminal activity – more often than not, when one launders illicitly-obtained assets, he or she does not place them in his or her own name.

Additionally, the establishment and training of specialised forensic financial analysts, who support the role of prosecutors in proving financial crimes, have proven to be beneficial in both criminal proceedings as well as in civil confiscation proceedings. States that have developed strong inter-institutional cooperation mechanisms also have shown greater success in the recovery of illicitly-obtained assets.¹⁶

1.2 International Regulations and Recommendations

A broad set of international conventions, standards, and bodies have been developed in order to combat IFFs. These include UN conventions which establish standards that all countries are expected to meet in order to avoid providing a safe haven for various kinds of IFFs. They also include treaties or organisations with narrower membership, but which set out more detailed measures; a number of these treaties allow for critical and useful peer reviews to ensure compliance.

Mechanisms for Accelerated Conviction and Non-Conviction-Based Forfeiture

- Plea bargaining, reconciliation or other expedited settlement of criminal proceedings requiring the defendant to return illicitly-obtained assets in exchange for a reduced sentence (or information regarding assets illicitly-obtained by others);
- Mechanisms that allow courts to impose orders for extended confiscation
Example: issuing an order stating that all assets acquired, say, over the past five years by a defendant convicted of a serious crime, are presumed to have been illicitly-acquired, unless the defendant can rebut this presumption;
- Orders for the confiscation of legally-acquired assets of the defendant, where the State demonstrates that it has taken every reasonable measure to locate the illicitly-acquired assets, but has been unable to do so.

Additional valuable mechanisms may include a separate civil confiscation proceeding against assets that are considered to be illegally-acquired – such proceedings still place the initial burden on the State to prove that certain assets are the product of illicit activities, albeit at a lower burden of proof; civil confiscation proceedings, while they do not adjudicate the criminal culpability of any particular individual, or allow the judge to deprive anyone of their liberty, have the advantage of being able to be adjudicated over a span of months, and to recover assets more quickly, in stark contrast to, say, a criminal money laundering case, which typically takes several years. The initiation and adjudication of a civil confiscation case (against illicitly-acquired assets) does not necessarily preclude the initiation and adjudication of a parallel criminal case (against an individual).

In 2015, the General Assembly of the UN adopted the Addis Ababa Action Agenda which invites “appropriate international institutions and regional organisations to publish estimates of the volume and composition of illicit financial flows”.¹⁷ Similarly, the [2030 Agenda for Sustainable Development](#) and the Sustainable Development Goals (SDG) call on countries to:

- significantly reduce illicit financial and arms flows by 2030;
- substantially reduce corruption and bribery in all their forms;
- develop effective, accountable and transparent institutions;
- strengthen domestic resource mobilisation, also by supporting developing countries;
- enhance global macroeconomic stability;
- strengthen the recovery and return of stolen assets and combat organised crime.¹⁸

The UN also highlights the need for a methodology to estimate IFFs in order to comply with the data

requirements stemming from the global SDG indicator framework.¹⁹

The EU and the OECD also play key roles in defining priorities that countries need to consider to better address the threats of money laundering and IFFs, as well as the need to strengthen mechanisms for the seizure and confiscation of assets, and the need to tackle tax evasion.²⁰ Additional mechanisms such as the Camden Asset Recovery Inter-Agency Network (and similar networks) provide much-valued support and cross-border dialogue for police and prosecutors to better capture assets linked to organised crime and high-level corruption.²¹

Key International Parameters Regarding Illicit Financial Flows

- 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances
 - 1999 UN International Convention for the Suppression of the Financing of Terrorism
 - 2000 UN Convention against Transnational Organised Crime
 - 2003 UN Convention against Corruption
 - FATF 40 Recommendations
-

2. Overview of Illicit Financial Flows and Organised Crime in Armenia



2.1 Overview of Armenia



- Population of over 2.9 million people, of which more than 98% are Armenian and 97% are Christians²²
- Capital city is Yerevan
- Official language is Armenian
- Currency is the Dram (AMD)²³
- Member of the UN, OSCE, the World Bank, the IMF, the CoE and EaP (since 2009). In 2014, Armenia joined the Eurasian Customs Union and, in 2015, the Eurasian Economic Union²⁴
- 1991: independence from USSR

Geographical and Regional Context

The Republic of Armenia is a landlocked country located in the South Caucasus region of Eurasia, with a total area of 29,743 km.² It is located on the Armenian Highlands and is bordered by Turkey to the west, Georgia to the north, Azerbaijan to the east, and Iran and Azerbaijan's exclave of Nakhchivan to the south.

Socio-Economic Context

Armenia's economy has undergone a profound transformation since its independence from the Soviet

Union in 1991. Under Soviet dependence, Armenia's economy was largely industry-based (chemicals, electronics, machinery and textiles). During this period, the country developed a modern industrial sector, supplying machine tools, textiles, and other manufactured goods to export partners, in exchange for raw materials and energy.²⁵ Since then, Armenia has switched from the large agro-industrial complexes of the Soviet era to small-scale agriculture.²⁶ Armenia's economy remains significantly reliant on Russia, which plays a large role over the country's strategic assets, including the gas distribution network, railroads and telecommunications.²⁷

From its independence until the global financial crisis in 2008, Armenia was considered a transition economy success case due to its sustained macro-economic achievements and socio-economic development, supported by liberal economic reforms and a favourable external environment.²⁸ In the decade after 2008, however, the country's economy was characterised by low growth, low investment and relatively high debt as well as socio-economic conditions that showed limited resilience to deteriorating circumstances; poverty reached almost 26% in 2017 and unemployment was 16% by the end of 2018.²⁹

In 2019, Armenia's GDP grew by 7.6% and was around USD 13.6 billion, the largest recorded growth since 2007, and key banking indicators (including assets) almost doubled.³⁰ Despite this, GDP was projected to fall to -2.2% in 2020 due to the Covid-19 pandemic and subsequently increase to 0.7% in 2021.³¹ The economic contraction in 2020 is expected to cause a sharp increase in unemployment which, as of the drafting of this report, was at 16.6%.³² Unemployment is mainly concentrated in urban areas, and disproportionately affects youth and women.³³ In 2018, the poverty rate estimate was 23.5%, some 2.2 percentage points less when compared to the 2017 rate.³⁴ From 2004 through 2018, extreme poverty rate fell by 77%, from 4.4% to 1.0%.³⁵ The Covid-19 pandemic and the consequent economic contraction were expected to increase the poverty rate by 4.8 percentage points in 2020.³⁶

Armenia is a high human development country, positioned 81 out of 189 countries and territories, and with a Human Development Index value of 0.760, which has been increasing since 1990.³⁷ Gender inequality, however, persists in relation to economic power and wealth.³⁸ Income inequality in Armenia, as measured with the Gini Index, is comparatively low but increasing: it was 30.0 in 2010 and 34.4 in 2018.³⁹

Political and Governance Context

Armenia is a representative parliamentary democratic republic. The Armenian Constitution adhered to the model of a semi-presidential republic until April 2018. Armenia's President is the head of state and holds the highest executive powers. He is indirectly elected for a seven-year term. The Prime Minister is the head of government and exercises executive power, alongside Deputy Prime Ministers. The Prime Minister is elected by majority vote by the National Assembly. Legislative power is vested in the National Assembly, which is a unicameral parliament.

In April and May 2018, peaceful demonstrations, known as the "Velvet Revolution", forced the former Prime Minister to resign after ten years in office. In the same month, the opposition leader was elected as Prime Minister by parliament after weeks of mass protests against the ruling party, transforming the country's political landscape. In December of 2018, a snap election was called to remove the Republican Party majority in parliament, the coalition *My Step Alliance* obtained more than 70% of total votes and 88 out of 132 seats in the National Assembly.⁴⁰ The Republican Party, previously ruling, won no seats. The Prime Minister promised to maintain Armenia's strategic alliance with Russia.⁴¹

In its foreign policy, the Armenian Government attempts to balance and reconcile different policy options, which – given its geopolitical position – are mainly between the European Union (EU) and the Russian Federation. In 2017, Armenia and the EU signed the Comprehensive and Enhanced Partnership Agreement (CEPA), which provided for close cooperation in a number of areas, including energy, transport, environmental protection, trade and investment. Also, the agreement seeks to strengthen comprehensive political and economic cooperation and partnership, and stipulates the level of Armenia's involvement in the policies, programs and activity of the EU.⁴²

2.2 Illicit Financial Flows and Organised Crime in Armenia

Armenia's strategic location at the crossroads of Africa, Europe, the Middle East and Asia is particularly attractive to organised criminal groups wanting to carry out smuggling operations into or across those regions.⁴³ The

overall crime rate throughout the country is lower than many Western European countries.⁴⁴ However, the country still faces crime areas of priority concern⁴⁵ which have generated particularly large amounts of illicit proceeds⁴⁶ in the period from 2010 to 2013.⁴⁷ Fraud (including cybercrime), tax evasion, transactions through counterfeit payment instruments, embezzlement, drug trafficking and smuggling are among these forms of criminal activity.⁴⁸ Together these crimes often lead to money laundering and violent crime.⁴⁹ However, no estimations on the value and significance of the overall criminal activity are available.⁵⁰ It is therefore difficult to estimate the overall level of proceeds-generating crime and to determine with some degree of accuracy the most prevalent sources which generate such proceeds in Armenia.⁵¹

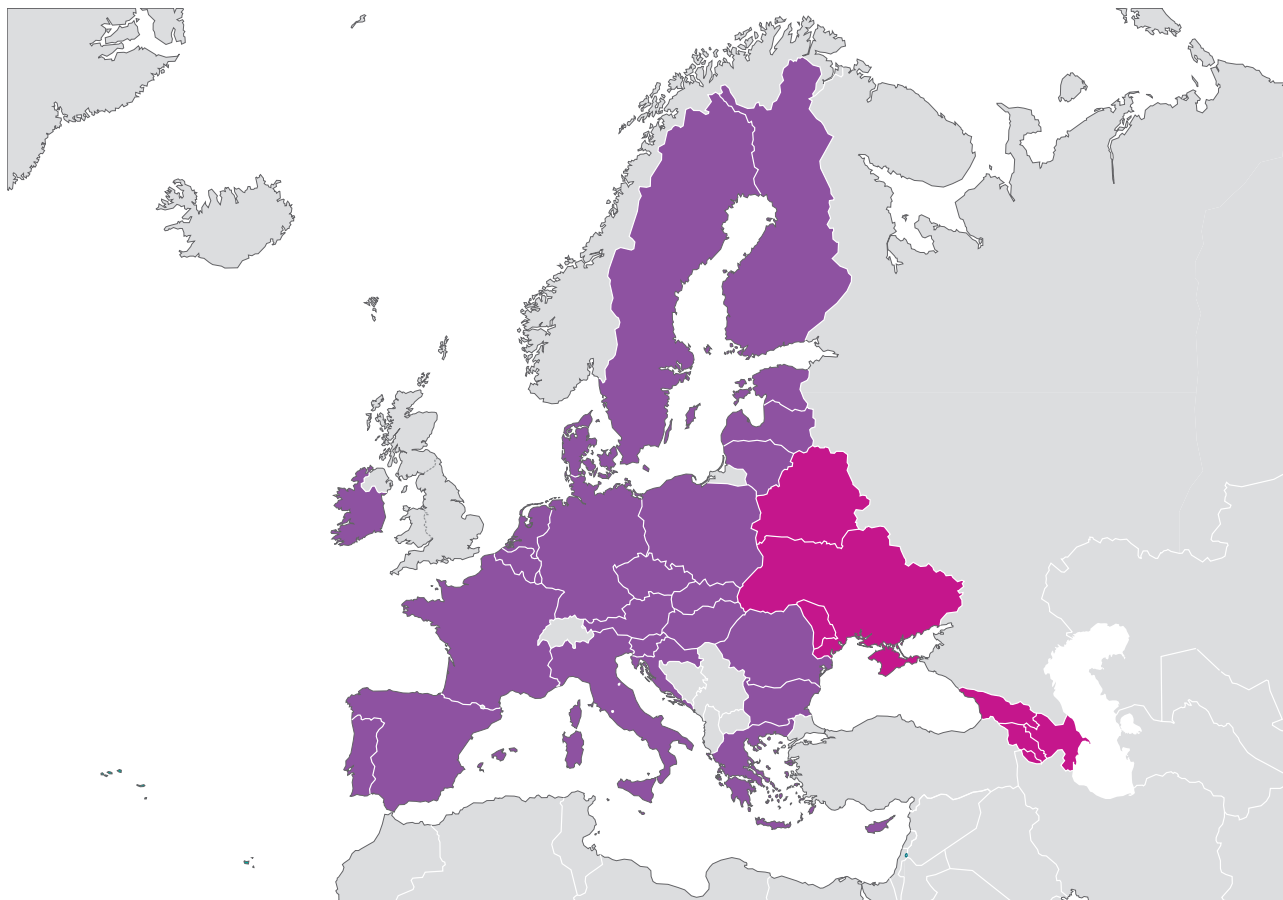
Not many convictions have been achieved domestically for these offences. The Financial Intelligence Unit (FIU) has indicated that in the majority of cases, the underlying criminal activity was committed outside Armenia, with the proceeds being introduced into the Armenian banking system.⁵²

Money Laundering

The potential money laundering threat in Armenia is rated as medium, due in part to the fact that the country is not an international or regional financial centre.⁵³ However, this conclusion is based principally on the analysis of convictions for proceeds-generating crimes.⁵⁴ Apart from the offences identified in the 2014 National Risk Assessment (NRA), corruption and smuggling also constitute a money laundering threat.⁵⁵ The large majority of funds from and to Armenia flow through the banking sector. This constitutes the biggest portion of money laundering vulnerability to the Armenian private and financial sectors.⁵⁶ The real estate sector and casinos are considered to pose a relatively higher risk of money laundering, due to shortcomings in supervision and weaknesses in the application of preventive measures.⁵⁷

The most recent NRA (2014) indicated that 20% of money laundering convictions from 2010 to 2013 had no potential for actual laundering since no criminal proceeds could be generated, whereas another 12% had such potential but did not generate criminal proceeds due to the absence of "mercenary" purposes in the crime.⁵⁸ In the same time period, the total amount of proceeds generated from these crimes was approximately AMD 42 billion (USD 106 million) or approximately AMD 10.5 billion a year (USD 26.5 million).⁵⁹

Organised crime and the Eastern Partnership



Armenia is a member of the Eastern Partnership (EaP), a joint policy initiative between the EU, its member states, and six eastern neighbouring countries: Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine.

During the 2017 EaP Summit, the partnership countries reiterated their commitment to the establishment and further development of sustainable structures to prevent and fight corruption, strengthen transparency, and combat money laundering. A Joint Declaration from the Summit established as key priorities 'effective systems of declaration of assets and of conflict of interest with easily searchable databases' and 'development of a legal framework and mechanisms for the recovery and management of assets and effective tools for financial investigations'.

Often serving as transit points for trafficking and smuggling, all six EaP countries are threatened by organised criminal groups in the region. These criminal groups and the illicit revenue generated from their crimes have a detrimental impact on the development and stability of the EaP region, the EU, and the Europe generally. It is imperative to implement a common strategy and operational responses between the EU and EaP countries, particularly on the issues of tracing, freezing, seizure, confiscation and return of illicitly-obtained assets.

Drug Trafficking

Armenia is primarily a transit country for illicit drugs originating in Southwest Asia and destined for markets in Europe and Russia. Most illicit drugs transiting Armenia originate in Afghanistan and transit Iran before entering Armenia over land borders or by aerial trans-shipment.⁶⁰ The borders between Armenia and Azerbaijan, and Armenia and Turkey are closed, thus reducing the relative attractiveness of Armenia for opiate traffickers. Seizures occur mostly through the southern border with the Islamic Republic of Iran and the northern border with Georgia.⁶¹ Opiates enter Armenia through the border with the Islamic Republic of Iran, in particular the Meghri border crossing, and are then smuggled across the country, predominantly by road, towards the border with Georgia.⁶² Seizures of heroin at the Yerevan airport have also been reported.⁶³

In October 2018, the Armenian Prime Minister vowed to eradicate drug trafficking through Syunik province.⁶⁴ Despite an increase in the volume of drugs seized over the first six months of 2018 compared to the same period in 2017, there have been no reported arrests of high-level criminal figures related to drug trafficking.⁶⁵ Between January and June of 2018, Armenian law enforcement registered some 512 criminal cases involving illegal distribution of illicit drugs.⁶⁶ Heroin seizures increased by over 300% in the first half of 2018 compared to the same period in 2017, which could be due to better screening practices at borders and checkpoints or a more robust focus on anti-drug policing.⁶⁷ Armenia reported a single seizure of 850 kg of heroin in 2014, which accounted for 99% of the heroin seized in the country during that year.⁶⁸ Notwithstanding this, the size of reported individual heroin seizures is an indicator of the potential scale of trafficking.⁶⁹

Human Trafficking

From 2015 to 2020, human traffickers exploited domestic and foreign victims in Armenia, as well as Armenian victims abroad.⁷⁰ For instance, some of the Armenian migrants who seek employment in Russia, the United Arab Emirates (UAE) and Turkey face forced labour, often following recruitment by fraud and exorbitant recruitment fees charged by labour brokers.⁷¹ Men in rural areas with poor education and children staying in childcare institutions also remain highly vulnerable to trafficking.⁷²

The Government of Armenia does not fully meet the minimum standards for the elimination of trafficking in the country.⁷³ Armenia reported no convictions for human trafficking between 2017 and 2018 and has not had a forced labour conviction since 2014. The government identified eight victims, the fewest since 2012. Furthermore, victims of trafficking in Armenia have their access to the justice system hindered.⁷⁴ For these reasons, Armenia was downgraded to Tier 2 Watch List in the US Department of State's 2020 Trafficking in Humans Report.⁷⁵ Still, Armenia is considered to be making progress through amended legislation and through the provision of training to law enforcement officials.⁷⁶ In 2018, authorities increased the number of investigations and prosecutions.⁷⁷ It was unknown, at the time of drafting of this report, the extent of illicit financial flows being produced by human trafficking of Armenian citizens.

Financing of Terrorism

The Armenian 2014 NRA concludes that the risk of terrorism financing is very low.⁷⁸ Although Armenia shares a border with Iran, which is considered by the FATF to pose a higher risk of terrorism financing, there are no concrete indications that Armenia's private sector and non-profit organisations are misused for these purposes.⁷⁹ There have been no reported investigations, prosecutions and convictions for terrorism financing and no terrorist-related funds have been frozen in Armenia under relevant United Nations Security Council Resolutions (UNSCRs).⁸⁰

Corruption

Corruption has a negative impact on the development of a country, allocation of public resources, and consolidation of democracy. Armenia is one of those developing countries, where the problem of corruption still remains prevalent and affects all sectors of the economy as well as government, including the judiciary, tax and customs operations, and law enforcement.⁸¹ Corruption is reported to be one of the defining characteristics of Armenian politics, described as the result of a close relationship between oligarchs, politicians and high-level officials⁸² and by strong patronage client networks, as well as a lack of separation between private business and public offices.⁸³ All of these undermine the successful implementation of anti-corruption efforts and the overall need for greater governmental transparency.⁸⁴

Corruption and Public Perception

Surveys show that corruption remains a very serious problem in Armenia and is widespread,⁸⁵ contradicting Armenia's NRA which rates the country's vulnerability as medium.⁸⁶ In 2019, Transparency International's Corruption Perceptions Index (CPI) scored Armenia 42 out of 100, a higher score indicating less corruption – this placed the country at a rank of 77 out of 199 countries.⁸⁷ This score, although it was the highest since 2012, continues to indicate that Armenia is a country with significant levels of corruption.⁸⁸

Corruption was considered to be a major trigger for the massive public protests that eventually turned into the Velvet Revolution and change in power in Armenia in 2018. Past anti-corruption policies were not comprehensive and were, at best, poorly implemented.⁸⁹ Although the new Armenian Government has been making efforts to eradicate corruption,⁹⁰ it is still doing poorly with respect to its legal framework, in terms of modifications needed and in actual implementation.⁹¹

A Case of Fraud

In 2016, investigations by the European Anti-Fraud Office (OLAF) revealed fraud carried out by NGOs in EU-funded projects in Armenia. OLAF uncovered a scheme through which NGOs had fraudulently pocketed more than EUR 300,000 worth of EU funds for projects that never took place, supported by false invoices and on the basis of fake participant lists. OLAF recommended the recovery of the embezzled sums to the competent Directorate for European Neighbourhood Policy and Enlargement Negotiations of the European Commission (DG NEAR).⁹² Ultimately, 11 persons were indicted in the course of a fully-fledged criminal investigation by Armenian judicial authorities.

While the government has mainly prioritised fighting grand corruption, it still needs to establish clear strategies and mechanisms for handling systemic corruption. The government's new draft Anti-Corruption Strategy for 2019-2022, released in 2018, was criticized by civil society

organisations for having been drafted in a disorganised and non-transparent manner.⁹³ In January 2019, the government extended the period for collecting feedback from civil society.⁹⁴

A number of prominent cases of corruption and public finance embezzlement have been produced indictments. As a result of anti-corruption measures undertaken between May and November 2018, some AMD 10.5 million (EUR 19 million) was recovered and returned to the state budget.

For the very first time, the government of Armenia has directly involved civil society organizations (CSOs) in the drafting of its fourth Anti-Corruption Strategy and Implementation Action Plan for 2019-2022. The strategy, based on three pillars (prevention of corruption; disclosure of corruption-related crimes; anti-corruption education and awareness-raising) provides a good basis for effectively tackling corruption. However, political influence, a lack of integrity monitoring and resources, and an incomplete asset recovery framework are among the many challenges that still persist in the fight against corruption in Armenia.

Source: Armenian Lawyers' Association and the CSO Anti-Corruption Coalition of Armenia. *Civil Society Report on the Implementation of Chapter II (Prevention) and Chapter V (Asset Recovery) of the United Nations Convention against Corruption*. 2020, <https://uncaccoalition.org/new-civil-society-report-on-armenia-better-monitoring-and-a-more-robust-asset-recovery-framework-needed-to-advance-anti-corruption-efforts/?fbclid=IwAR35xUaWLFfKU3EqrY9AgkPZryo-ejopih0SpPZ-4FnN25PPftkekdlRohs>

3. Combating Illicit Financial Flows and Organised Crime in Armenia



Combating IFFs involves multiple policy areas and requires a wide range of actors to design and implement different policies and actions at different levels of government, and not solely within the criminal justice sphere. Transparency in corporate structures is also essential and steps must be taken to promote public sector integrity and support widespread focus on the seizure, confiscation and recovery of illicitly-obtained assets (through penal and non-penal mechanisms). Further, reinvesting recovered assets into high-priority development needs is essential for overall socio-economic development. Policy coherence for sustainable development will be instrumental for reducing illicit financial flows, with inter-agency and international cooperation at the heart of the solution. The need to reduce IFFs is at the forefront of the international agenda of development policy. The aim of curbing IFFs is strongly linked to the post-2015 agenda by its incorporation into the United Nations Sustainable Development Goals (SDGs), particularly through SDG 16.4: “By 2030, significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets, and combat all forms of organised crime”.

3.1 Armenia’s Legal and Institutional Framework

Legal Framework

There is a very close relationship between measures to combat IFFs and measures to fight other proceeds-generating criminal activity, although addressing IFFs does require a legal framework beyond a simple criminal justice response. IFFs and proceeds-generating crimes can, however, be expected to have some correlation, and therefore rise and fall together. The government of Armenia is working to address the vulnerabilities created by drug smuggling, the shadow economy, significant inflows of remittances from abroad, the hiding of assets within the real estate sector, and the widespread use of cash (which is considered to reflect certain traditional realities in the country) and, consequently, reducing the amount of IFFs in the country.⁹⁵ The government approved a National Strategy for Combating Money Laundering and Terrorism Financing,⁹⁶ to address the risks identified in the NRA in 2014.

The legal system composed of the Constitution, international treaties, laws and other legal acts underlies the system for combating organised crime, money laundering and financing of terrorism in Armenia, and also includes the Criminal Code, the Criminal Procedure Code, the Code of

Administrative Offences, the Customs Code, as well as other legal acts regulating activities of agencies, organisations and entities involved in the fight against these crimes.⁹⁷

- Article 190 of Criminal Code (CC)⁹⁸ criminalises money laundering and concealment. Money laundering offences are punishable irrespective of the place where the predicate offence was committed, although foreign predicate offences are not specifically covered.⁹⁹
- Self-laundering is also criminalised. Armenia’s Criminal Code also criminalises large-scale embezzlement (article 179).¹⁰⁰ Embezzlement of property in the private sector is criminalised in Article 179 of the CC, Article 53 of the Code of Administrative Offences and, if committed by means of a computer, Article 181 of the CC.¹⁰¹
- Article 55(4) CC foresees compulsory confiscation of the proceeds of crime and instruments used or intended for use in the commission of money laundering and predicate offences.¹⁰² However, this article can only be applied if there is a conviction for money laundering.
- In the absence of such a conviction, only Article 55(3) CC is applicable, which is narrower since it only covers grave and very grave crimes, thus significantly limiting the State’s capacity to effectively seize and confiscate assets from multiple income-generating crimes.

Tracing, freezing and seizing measures can be taken according to the Criminal Procedure Code (CPC). Armenia unfortunately has not yet established a dedicated Asset Recovery Office (ARO) to allow for effective tracing and management of assets linked to organised criminal activity as well as corruption.

Confiscated property is transferred to the State Budget; there was no available information, at the time of drafting this report, with respect to how such recovered proceeds are actually distributed – e.g., to high-priority development needs, such as those within the health or education sectors.¹⁰³ Seized property is preserved in accordance with Article 236 CPC.¹⁰⁴

- Article 55(1) and (2) CC provide for confiscation of property or a part thereof. Bank secrecy is regulated by the Law on Bank Secrecy (LBS), the Law on AML/CTF, the CPC, and the Law on Operative and Search Activities 2007 (LOSA).¹⁰⁵ Prior to the initiation of a criminal case, law enforcement bodies can obtain information covered by financial secrecy, including bank secrecy, pursuant to Article 29 LOSA.¹⁰⁶

Institutional Framework

The following institutions are the main bodies and authorities involved in combating organised crime, money laundering and financing of terrorism in the country:

- Central Bank of Armenia (CBA) – independent institution responsible for issuing all banknotes and coins in the country, overseeing and regulating the banking sector and keeping the government’s currency reserves. It exercises its licensing, regulatory, and supervisory functions in relation to all financial institutions in Armenia, including banks, credit organisations, insurance companies, investment firms, money transfer services, foreign exchange bureaus, and pawnshops. It has adequate procedures in place for imposing sanctions against financial institutions and it applies remedial actions against all kinds of financial institutions.¹⁰⁷
- Financial Monitoring Center (FMC) – subdivision of the Central Bank, acting as the national financial intelligence unit (FIU) since 2005, and is an intermediary between reporting entities and law enforcement authorities. The mission of the FMC is to combat money laundering and terrorism financing, by collecting, analysing and exchanging information for AML/CFT purposes. In addition, the FMC represents the Republic of Armenia in several international organisations and structures, while actively participating in international AML/CFT initiatives.¹⁰⁸
- Prosecutor General’s Office (PGO) – oversees the enforcement of Armenian law by law enforcement agencies such as the Police of Armenia and the National Security Service.¹⁰⁹
- National Security Service (NSS) – elaborates and implements the policies of the Government of Armenia in the national security sector and manages national security bodies.¹¹⁰
- Ministry of Justice (MoJ) – has two mandates in the context of AML/CFT, namely supervision (only in relation to exercising judicial procedures for criminal cases brought to the court) of the competent authority responsible for mutual legal assistance, and of notaries and non-profit organisations.¹¹¹
- Ministry of Finance (MoF) – executive authority which elaborates and implements the policies of the Government in the areas of fiscal revenue collection and public finance administration. As the supervisory authority for various categories of Designated

Non-Financial Businesses and Professions (DNFBPs), such as licensed auditors, casinos, organisers of games of chance and lotteries, the MoF ensures the compliance of these DNFBPs with corresponding AML/CFT requirements.¹¹²

3.2 Armenia’s Compliance with International Measures and Recommendations

Progress has been made in Armenia in meeting AML and FT global standards. Since 2009, Armenia has made major improvements in terms of compliance with the FATF Recommendations.¹¹³ The money laundering offence, the confiscation regime, the financing of terrorism offence, mechanisms for the freezing of terrorist assets, preventive measures and institutional measures and powers of the financial supervisor are all in place.¹¹⁴ The identification, assessment and understanding of money laundering risk need some improvement, although Armenia has made significant efforts to conduct a national risk assessment (NRA).¹¹⁵

A new manual for conducting ML/FT national risk assessments in Armenia was approved in 2013 and follows the recommendations and measures from international organisations, such as the FATF, the OECD and the World Bank.¹¹⁶ In 2018, the Council of Europe’s Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (Moneyval) decided that Armenia will remain in regular follow-up and will continue to report on further progress to strengthen its implementation of AML/CFT measures.¹¹⁷

Key Progress for Armenia

Armenia has made significant progress in identifying, assessing and understanding its ML/FT risks, by conducting strategic and sectorial analyses of risk in 2010 and 2013 and a fully-fledged national risk assessment in 2014.¹¹⁸ An Action Plan was implemented in 2017 to address the risks identified in the NRA. Nevertheless, a number of gaps were identified in Armenia’s assessment of its money laundering risks, particularly due to the lack of certain key data and information concerning the offence. As a result, the understanding of the risks still needs considerable improvement, and this has an impact on the development and prioritisation of AML/CFT policies and activities across both the public and private sector.¹¹⁹

3.3 Armenia's capacity to freeze, seize, confiscate and recover assets linked to organised criminal activity, corruption and the financing of terrorism

Armenian national authorities do seek the seizure and confiscation of assets linked to criminal offences, in particular money laundering. Between 2010 and 2014, the national authorities have made use of financial intelligence available at FMC level to suspend and seize funds. During this period, law enforcement authorities have suspended and seized around EUR 647,603.¹²⁰

However, the Moneyval Committee of Experts considered this mechanism as insufficient in practice, since the Armenian tax authority does not resort to it as often as it should, given the relevant threat posed in Armenia by tax offences.¹²¹ One of the main reasons pointed out by law enforcement authorities is the complex legislative provisions which, in turn, inhibit the obtaining of necessary financial evidence.¹²² Moreover, the lack of a culture of proactive financial investigations in major proceeds-generating crimes impacts the effective use of available financial intelligence for the purpose of identifying, tracing and preventing IFFs.¹²³

The issue of asset recovery was only very recently brought to the political agenda in Armenia in 2018 and it is very slow to progress. As a result, the legal framework of asset recovery, despite recent legislative reforms, continues to be complex and incomplete. This highlights the necessity of establishing an Asset Recovery Office on the basis of the current framework, equipped with adequate staff and other resources to fulfill its mandate effectively.

Source: Armenian Lawyers' Association and the CSO Anti-Corruption Coalition of Armenia. *Civil Society Report on the Implementation of Chapter II (Prevention) and Chapter V (Asset Recovery) of the United Nations Convention against Corruption*. 2020, <https://uncaccoalition.org/new-civil-society-report-on-armenia-better-monitoring-and-a-more-robust-asset-recovery-framework-needed-to-advance-anti-corruption-efforts/?fbclid=IwAR35xUaWLFKU3EqrY9AgkPZryo-ejopih0SpPZ-4FnN25PPftkekdLRohs>

4. Impact and Cost of Illicit Financial Flows in Armenia



4.1 Harm Assessment of Illicit Financial Flows

IFFs impact a country's economic and social development in myriad ways. Undocumented flights of wealth to and from (as well as within) a country have severe impacts on government revenues, wealth that could otherwise be invested in public spending and other forms of economic reforms. However, the harm provoked by IFFs goes well beyond the mere loss of government revenue. The OECD assesses that IFFs can impact a country through several categories of harm, among them economic, societal, governance, physical and environmental.¹²⁴

IFFs and organised crime affect trust in public officials, government institutions, and the rule of law. Low levels of trust, civic engagement, and social capital can impede development and further bolster organised criminal groups.¹²⁵ This creates a harmful cycle that increases political instability and weakens governance. The cost of corruption to developing countries is also enormous, with the World Economic Forum estimating an annual USD 1.26 trillion in cost to developing countries.¹²⁶

What Could be Done with USD 1.26 trillion?

To illustrate the significant cost of corruption, USD 1.26 trillion is enough money to lift the 1.4 billion people living on less than USD 1.25 a day above the poverty threshold and keep them there for at least six years. Additionally, UNCTAD proposed in March 2020 a USD 1 trillion liquidity injection through the IMF to help countries with the COVID-19 crisis, providing money for crucial emergency health services and social relief programs.

Corruption not only directly generates IFFs (e.g. banking fraud, embezzlement) but also creates an environment in which organised criminal activity can flourish; the two are mutually reinforcing.¹²⁷ Organised criminal groups exploit the fragility of public authorities vulnerable to corruption, often gaining benefits and access to political power.¹²⁸ This creates an environment where organised criminals benefit from corruption, compounding and reinforcing both crime and corruption. Corruption can also weaken the threat of judicial and legal consequences for criminal activity, mitigating any real deterrence effect of the legal system.

Economic Harm

- In the direct form, IFFs withdraw funds from the legitimate economy, and may force the State to divert

resources in order to prevent and respond to criminal activity, or to treat or compensate victims. Indirectly, IFFs damage the economic climate, competitiveness, investment and entrepreneurship.¹²⁹

- The drains on resources and tax revenues caused by IFFs have significant effects on the budget and increase the deficit. The loss of financial resources blocks the expansion of basic social services and infrastructure programs that can improve the wellbeing and capacities of all citizens, including the most vulnerable, such as the very poor.¹³⁰
- IFFs also weaken financial systems and allow individuals to hide stolen assets, evade taxes, and avoid the adverse impacts of currency devaluation. Instead of benefiting the people and local economies, the money can end up in offshore tax havens.¹³¹ In some cases, this produces a minority that has sustained political power and influence over most of the population, and which has few, if any, incentives to develop the domestic economy and social services.¹³²
- A study conducted between 2000 and 2010 of 39 countries demonstrated that the economic growth of these countries could have increased by about three percent had IFFs been eradicated.¹³³
- IFFs impact poverty and general living standards. For example, income per capita was 1.5 per cent lower than average in Sub-Sahara Africa as a consequence of capital flight.¹³⁴
- IFFs impact the economy of a country by financing underground and parallel economies,¹³⁵ which in turn hurt the stability, credibility and competitiveness of a country's licit economy.

Societal and Governance Harm

- Societal harm creates or exacerbates societal tensions, as well as economic or social marginalisation.¹³⁶ IFFs may impact societies by incentivising those in vulnerable groups to participate in, or fall victim to, organised criminal activity. The UN Human Development Report warns that IFFs constitute a roadblock to human development by “weakening governance and reducing consumption, investment and social spending, hurting the long-term construction of collective capabilities and the expansion of human development”.¹³⁷ For this reason, addressing IFFs can be instrumental to improving societal and developmental needs.¹³⁸

- IFFs harm society also by undermining political institutions and therefore reducing public trust in national authorities. This is also known as ‘structural / governance harm’.¹³⁹ Harm to government reputation occurs whenever a law is broken and the government appears to be ineffective in responding to such criminality.¹⁴⁰ Structural and governance harm concerns the damage done to the quality of governance and the legitimacy of the social contract, the rule of law, and the development process, as a result of corruption, organised crime, IFFs, and impunity.¹⁴¹
- This type of harm damages, for instance, efforts to achieve Goal 16 of the SDGs, of promoting peaceful and inclusive societies for sustainable development, and providing access to justice for all, as well as building effective, accountable and inclusive institutions at all levels.¹⁴² The combination of high IFFs and high levels of corruption can result in weakened service delivery and the diversion of funds away from Armenia’s government programmes, including in the health sector; similarly, the need to increase expenditure on security priorities to control organised crime, such as law enforcement and border control, can divert limited government resources away from investments in social services, such as health and education.¹⁴³
- In conjunction with economic and political figures, civil society has a key role to play in terms of defending and cultivating the rule of law. Strong and capable government institutions and civil society discourage many illegal activities and prevent the growth of IFFs. For instance, a transparent tax system and sound public expenditure management can discourage tax evasion, while a strong culture of integrity and accountability within government, along with real sanctions for both criminal and ethical violations, is essential to prevent and manage potential conflict-of-interest situations and can act as a strong deterrent to corruption.¹⁴⁴

Physical Harm

- IFFs also cause harm to the physical and psychological integrity of individuals.¹⁴⁵ IFFs and organised crime affect, for instance, the achievement of Goal 3 of the SDGs (“Ensure healthy lives and promote well-being for all at all ages”)¹⁴⁶ in Armenia in a number of ways that are not at all abstract, including through increased narcotic drug usage as a consequence of drug trafficking, or from the use or threat of violence.¹⁴⁷

4.2 Estimates of Direct Cost of IFFs on and in Armenia

IFFs are by nature intended to be hidden. Therefore, measurements of illicit flows can only be made indirectly using related data, which makes such measurement imprecise. Additionally, there are many forms of illicit flows that cannot be detected using available economic data and methods (e.g. cash transactions).¹⁴⁸ For these reasons, the estimates presented here are likely to be conservative. However, they still provide one measure of the largely unobservable IFFs problem. Moreover, even a conservative estimate of this dynamic indicates a significant degree of impact on Armenian society.

Estimates about IFFs in developing countries vary significantly, and while work has been done by the United Nations to estimate the proceeds of various transnational criminal activities, there remain considerable knowledge gaps, including on the extent to which these proceeds flow through the international financial system.¹⁴⁹ However, because the question is critical to the future of Armenia’s population, any indication of the collective significance of IFFs may be helpful in guiding policymakers, citizens, and other stakeholders in the country.

In developing countries, total IFFs grew at an average annual rate between 7.2% and 8.1% over the period of 2005 to 2014, reaching estimated levels between USD 620 billion and USD 970 billion in 2014.¹⁵⁰ In Armenia, IFFs grew from USD 514 million in 2005 to USD 1.848 billion in 2013. In this period,¹⁵¹ the total amount of IFFs in the country reached over USD 9.8 billion, making Armenia the 70th among 149 countries.¹⁵² The illicit financial outflow sharply intensified in Armenia in 2008, ahead of the recession, with USD 1.15 billion flowing out of the country (43.3% of growth); however, in 2009, it decreased by 19.8%. In 2010, illegal financial outflow started increasing again and reached USD 1.8 billion in 2013.¹⁵³

The analysis of IFF estimates as a percentage of the country’s GDP provides a different perspective on IFFs than volume alone, as it indicates the potential impact of this dynamic on the economy.¹⁵⁴ For Armenia, IFFs as a percentage of GDP has remained high since 2005 (10% of the GDP). Its lowest estimate was in 2006 (8% of the GDP) where it started to increase until its highest in 2013 (17% of the GDP). Illicit flows are most likely significant inhibitors to country development when their ratio to GDP is greater than 10%.¹⁵⁵

IFFs in developing countries, such as Armenia, mean fewer hospitals, schools, police, roads, and pensions, as well as fewer job opportunities.¹⁵⁶ The OECD and multiple other

international entities have indicated that there is clear “collateral damage” of outflows produced by embezzlement, the diversion of public property, and the plundering of the public treasury.¹⁵⁷

Increased focus on the seizure and confiscation of only a portion of assets linked to IFFs would have a significant impact on accelerating development within Armenia, assuming that recovered assets are liquidated and effectively distributed to high-priority development needs. The following section briefly presents the development challenges for key sectors, as well as the development opportunities in Armenia if the Government were to prioritise the recovery of only 10% of assets lost through IFFs in the country.

4.3 Investment of recovered assets into Armenian development

The *Armenia Development Strategy (ADS) 2014–2025*¹⁵⁹ is the strategic framework for development of state policies and has four main priorities:

- 1) Employment growth (creating well-paid jobs);
- 2) Human capital development (enhancing scope, quality and accessibility of primary services as well as

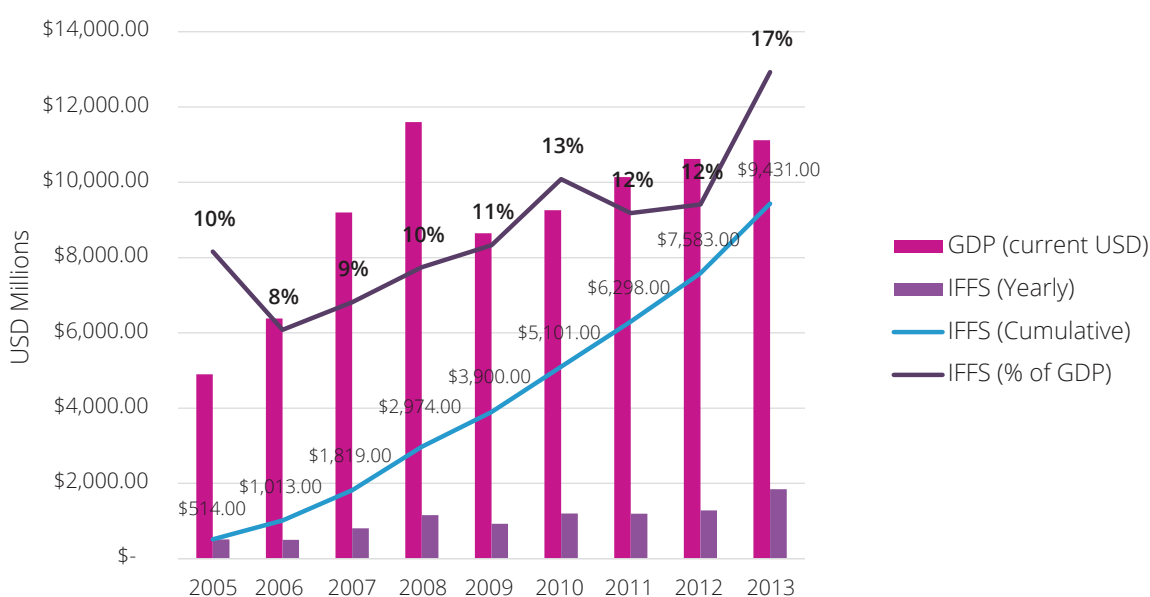
professional growth, civic education and better cultural activities);

- 3) Improving the social protection system (ensuring the effectiveness of existing systems, provision of social guarantees, reducing social risks and poverty, and gradual transiting from monetary social aid to needs-based social assistance);
- 4) Institutional modernisation of the public administration and governance (adopting policies focusing at improved public service efficiency, targeted use of public resources, improved service quality and accessibility, reduced corruption, transparent decision-making, and increased civil society participation in these processes).

Armenia has had mixed results in implementing the SDGs: While there is good progress in many areas (e.g. child and maternal health; water supply; urban sanitation; reliable and renewable energy; and environmental protection), there are several areas with slow progress (e.g. poverty; education; gender equality; water usage; land degradation; rural sanitation; governance; and sustainable consumption and production practices).

Armenia faces particular challenges with regard to public investments:¹⁶⁰ there are significant gaps in the efficiency of public investments in the health, energy and roads sectors in terms of physical outputs and quality; and there is an increasing reliance on external financing for major public investment projects.

IFFs in Armenia 2005-2013 (Yearly and Cumulative)



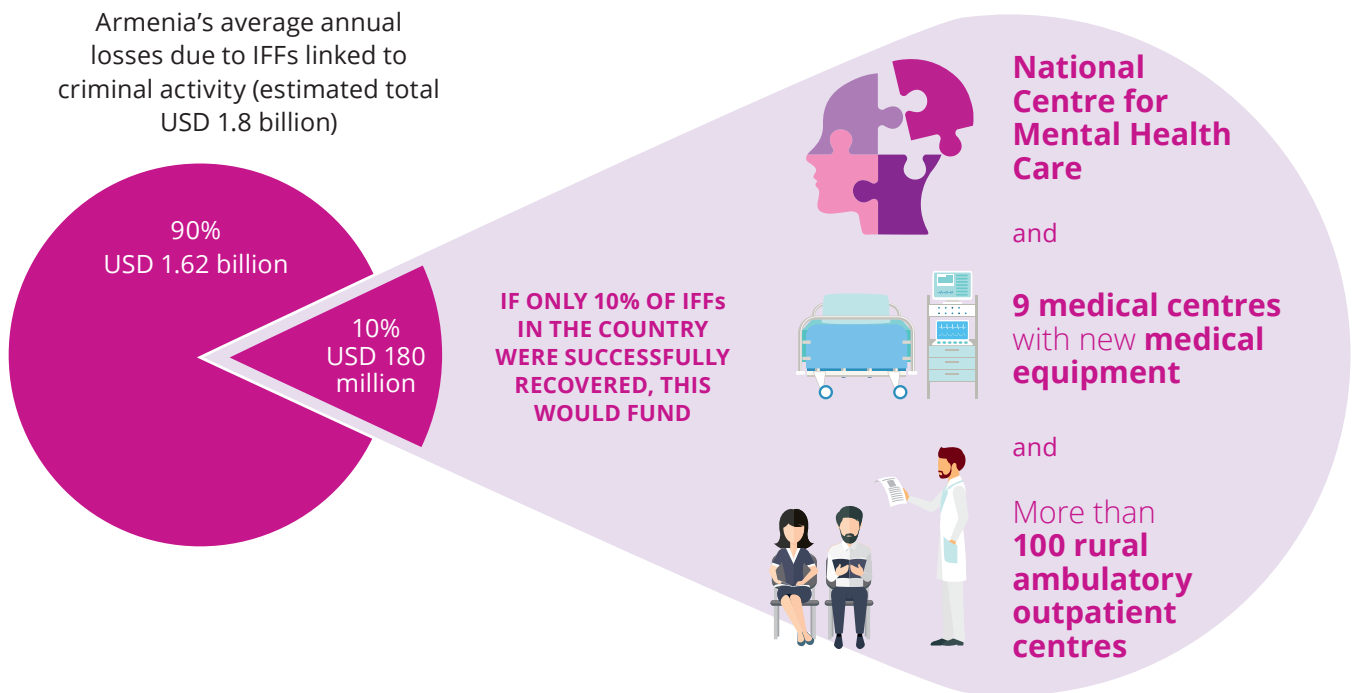
Sources: based on data retrieved from World Bank and GFI (2015)¹⁵⁸

Health Sector

The health system in Armenia is concentrated in the capital city. Out-of-pocket payments remain high (over 80% of total health expenditure), reducing access to essential services for the poorest households, especially for in-patient care and pharmaceuticals. The fertility rate in Armenia remained low (1.6 children per women in 2018) and maternal mortality decreased to 18.3 per 100,000 live births in 2017. It is of concern that access to basic health-care services is limited, in particular for women. The priority remains to continue implementing government programmes in the areas of tobacco and harmful use of alcohol, diabetes, HIV/AIDS, tuberculosis, hepatitis and STIs immunization and treatment, as well as mental health (only 3.0% percent of the health budget is dedicated to mental health issues).¹⁶¹

If Armenia were to successfully seize and confiscate only 10% (approximately USD 180 million, based on most recent available data) of the average amount of IFFs considered to be annually circulating within the country, this would enable the government to fully fund the planned reconstruction of the National Centre for Mental Health Care (est. budget of USD 7.3 million and capacity of 350 to 500 beds), as well as the construction / reconstruction of nine medical centres complete with new medical equipment (each at an average cost of USD five million and a capacity of 35-65 beds per centre). Such recovered assets would also fully fund the construction and equipping of more than 100 rural ambulatory outpatient centres to provide primary health care services.

How Recovered Assets Can Strengthen the Health Care Sector in Armenia



Education Sector

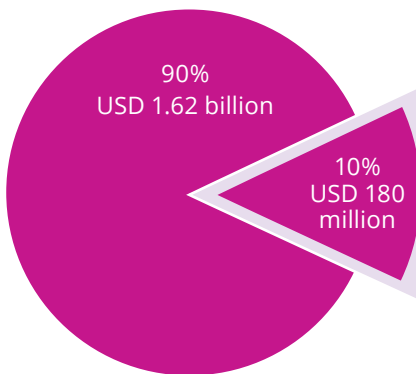
Government expenditure on education in 2019 was 7.9% of the GDP, declining from 8.7% in 2015. The quality of education is worsening, and this, together with deteriorating infrastructure and poor management of schools resulted in declining educational outcomes. The need to enhance results, especially in the fields of STEM (science, technology, engineering, and mathematics) has been emphasized.¹⁶²

If Armenia were to successfully seize and confiscate only 10% (approximately USD 180 million, based on most recent

available data) of the average amount of IFFs considered to be annually circulating within the country, this would enable the government to cover the annual salaries for 38,000 teachers for an entire year, at a rate of more than 75% above a minimum wage of USD 225 per month.¹⁶³ Alternatively, the recovered assets would cover the cost to strengthen and rebuild, every year (at current rates), more than 50 schools throughout the country, to ensure that they are more resistant to earthquakes, benefitting more than 60,000 students.¹⁶⁴

How Recovered Assets Can Strengthen the Education Sector in Armenia

Armenia's average annual losses due to IFFs linked to criminal activity (estimated total USD 1.8 billion)



IF ONLY 10% OF IFFs IN THE COUNTRY WERE SUCCESSFULLY RECOVERED, THIS WOULD FUND



Salaries for **38 000 teachers** for 1 year

or



More than **50 schools** strengthened and rebuilt **every year**

Transportation and Roads Sector

Rail and road infrastructure are also suffering from underinvestment and low maintenance, affecting transportation of goods and persons, as well as road safety.

If Armenia were to successfully seize and confiscate only 10% (approximately USD 180 million, based on most recent available data) of the average amount of IFFs considered to be annually circulating within the country, this would enable the government to finance key infrastructure projects, including for example the cost of renovating, every year, over 430 kilometres of roads (at a conservative cost of USD 418,000 per kilometre).¹⁶⁵

Although the government has consistently maintained transport infrastructure as a priority the quality of its domestic transport network has deteriorated due to a lack of investment in maintenance. Only 500 km of the country's 1 329 km of railways are in working condition, and even the operational sections are in need of maintenance and modernisation. Armenia's road network is also in poor

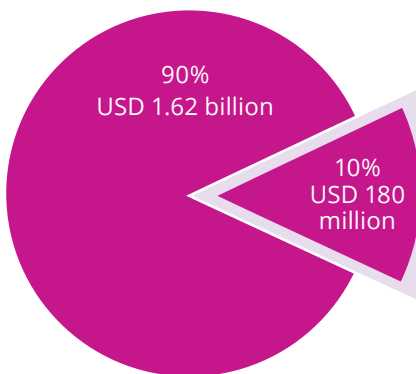
condition, contributing to a persistent problem with road safety.

These shortcomings in quality and performance stem from underinvestment in transport infrastructure. Over the past decade, Armenia's per capita investments in infrastructure have fluctuated, never exceeding USD 50 per capita between 2008 and 2016. In comparison, over the same period, per capita investments in transport infrastructure were about USD 126 on average annually in Azerbaijan and USD 101 on average annually in Georgia. Armenia's investment in inland transport has focused on its road network rather than rail transport. In recent years, rail's share in total investments has decreased markedly.

Sources: ADB (2019), Technical Assistance: Transport and Trade Facilitation Strategy, 2020-2040 (Armenia), Asian Development Bank, Manila. ITF (2019), Transport Performance Indicators, https://www.oecd-ilibrary.org/transport/data/itf-transport-statistics/transport-performance-indicators_2122fa17-en.

How Recovered Assets Can Strengthen Infrastructure in Armenia

Armenia's average annual losses due to IFFs linked to criminal activity (estimated total USD 1.8 billion)



IF ONLY 10% OF IFFs IN THE COUNTRY WERE SUCCESSFULLY RECOVERED, THIS WOULD FUND



Renovation of over **430 km of road every year**

and



Other key **infrastructures**

5. Conclusions and Recommendations



This study has examined the severe negative impact of IFFs and related crimes on Armenia, and has highlighted some of the sectoral needs that can be significantly addressed if the government prioritises the capture of IFFs and illicitly-obtained assets. Effective asset recovery policy is fundamental to mitigating and preventing future costs of IFFs on the country.

In light of the above, this study provides the following recommendations to national authorities and other key stakeholders to help strengthen the effective and transparent recovery of illicitly-obtained assets, to inhibit IFFs and therefore to facilitate more accelerated development within the country.

1. Publish Clear and Unambiguous Policy Statements on IFFs/ML and Asset Recovery

Publish clear and unambiguous statements and policies with respect to IFFs / ML and the priority of the Government to seize and confiscate (with due process) assets linked to organised criminal activity.

2. Identify and Implement Mechanisms that Improve Seizure and Confiscation, as well as Transparent Management of Such Assets

Identify and implement mechanisms that improve efficiency in seizure, confiscation of assets, liquidation of those assets, and the distribution of funds, in a highly transparent manner, to high-priority development needs (needs identified in close cooperation with civil society organisations, and needs identified through regular feedback from citizens).

3. Establish the Use of Extended Confiscation as a Norm Within the Criminal Justice System

Consideration should be given to adopting and implementing, as the norm, not the exception, within the criminal justice system, the use of extended confiscation, which allows a court, once a conviction has been entered for specified serious crimes which can generate significant financial flows, to enter an order that there is then a legal presumption that ALL income and assets of the defendant acquired over, for example, the past five to ten years, shall be deemed to have been illicitly acquired, unless the title holder can prove that the property was acquired through legal means, with legally-acquired assets, and in good faith.

4. Establish the Use of Confiscation of Equivalent Value as a Norm Within the Criminal Justice System

Consideration should also be given to adopting and implementing as the norm, and not the exception, within the criminal justice system, the use of orders to confiscate legally-acquired assets of equivalent value, where the illicitly-obtained assets of a defendant cannot reasonably be located or which have been depleted by the defendant or others. This is consistent with the principle that crime should not pay.

5. Ensure that the criminal justice system can continue proceedings against the assets of individuals charged with serious income-generating crimes, even if:

- a. the defendant is a fugitive from justice (as long as the State demonstrates to the court it has done everything reasonable to provide notice to the defendant of criminal proceedings against him or her);
- b. the defendant dies prior to culmination of the criminal proceedings; or
- c. the defendant is declared mentally or physically incapable of participating in the criminal proceedings against him or her.

All of the above are consistent with the principle that crime should not pay, even if the assets are found to be in the name or possession of others. The only exception here would be those who have acquired such assets in good faith and without any reasonable knowledge that such assets were the product of criminality.

6. Establish the Use of Unjustified Enrichment Proceedings as a Norm Within the Criminal Justice System

Consideration should be given to adopting and implementing as the norm, and not the exception, the initiation and prevalent use of proceedings against individuals (public officials and private citizens) for unjustified enrichment, or unexplained wealth, where the State can demonstrate to the court that an individual's assets significantly exceed his or her reported or reasonably possible income. Such can be done in criminal proceedings, civil proceedings or both.

7. Adopt more Agile Mechanisms for the Settlement of Criminal Cases

In light of heavy caseloads of prosecutors and the judiciary, consideration should be given to adopting where possible more agile mechanisms for the settlement of criminal cases, where a defendant agrees to return assets reasonably believed by the State to be the product of serious crime, and/or provides reliable information to the State regarding the serious crimes or illicitly-obtained assets of others, in return for a proportionately lighter sentence. Consideration should be given to not allowing such a mechanism for principals in organised criminal syndicates.

8. Adopt and Implement Mechanisms for a Centralised Asset Recovery Office (ARO)

Strong consideration should be given to adopting and implementing, with international technical assistance, mechanisms for a centralised Asset Recovery Office (ARO), which houses under one roof, officials with access to databases of, for example, the taxing authority, vehicle registry authority, land registry authority, business records authority, criminal records authority and related entities, in order to allow the ARO (or similar mechanism) to provide law enforcement (police and prosecutors) with consolidated reports on the assets held by those suspected of serious criminal activity, as well as assets in the possession of their family members and/or possible associates (in light of the fact that most who launder assets do not launder them in their own name).

9. Ensure that a Centralised Asset Management Office (AMO) is in Place

Along with the above recommendation, consideration should be given to ensuring that a centralised Asset Management Office (AMO) is in place for the transparent management of seized and confiscated assets, and for the public auctioning off of seized assets which are subject to significant depreciation (with the proceeds from such sales to be held in a State bank account until the case is fully adjudicated), as well as the public auctioning off, as the rule, not the exception, of all confiscated assets, particularly if the State does not have the capacity to effectively optimize the management of such assets. Exceptions may exist, for example, for assets which are businesses in which innocent individuals may lose their jobs if the asset is auctioned off, or where some assets can, in a transparent manner, be distributed to local communities for optimized use, or

to State entities (e.g., vehicles to the National Police for undercover operations, as long as checks are in place to avoid corrupt distribution or misuse of such property). Public policies should be put in place to ensure that a significant percentage of the proceeds from the sale of confiscated assets should go to high-priority development needs (e.g., to build schools, clinics, infrastructure).

10. Establish or Strengthen of Non-Penal Mechanisms of Civil Confiscation

Given that money laundering cases often take years to adjudicate, and thus to produce a final order for confiscation of assets linked to organised criminal activity and corruption, and given that this produces an inherent, and often justified, perception by the public that the criminal justice system is too slow in the recovery of assets, strong consideration should be given to the establishment and/or strengthening of non-penal mechanisms for the seizure and confiscation of assets (civil confiscation) – once such mechanisms are in place, and are being implemented (still, with due process for any individual seeking to claim title over such assets), this can reduce the time to confiscate assets from a period of years to a period of several months, and thus bolster public confidence in the efficiency of the judicial system, as well as facilitate the funding of high-priority development needs, and funding for law enforcement and judiciary entities charged with the fight against organised crime and corruption.

11. Empower the Taxing Authority

Consideration should be given to empowering the taxing authority to more effectively seize and confiscate assets linked to tax evasion and other unreported income and assets.

12. Tighten Controls on Financial Institutions to:

- a. Report suspicious transactions;
- b. Identify true (“beneficial”) owners of bank accounts, companies and trusts; and
- c. Vigorously sanction financial institutions and other reporting entities which do not comply, including heavy fines and/or closure (temporary or permanent) of such financial institutions or reporting entities.

13. Strengthen mechanisms for regular dialogue and feedback from civil society and citizens, particularly with respect to where recovered assets should be distributed.

Consideration should be given to strengthening mechanisms for regular dialogue and forums with civil society and citizens with respect to sectors they feel should be of high priority for the investment of recovered and liquidated assets. This would help to engender a sense of public participation into government decisions, as well as facilitate more agile responses to identified needs.

14. Strengthen Regional and International Cooperation

Consideration should be given to strengthening regional and international cooperation, particularly through regular face-to-face dialogue with police and prosecutorial focal points in other key countries regarding the tracing, freezing, seizure, confiscation and recovery of assets linked

to organised criminal activity (and corruption), and the speedy resolution of pending cases. Such can include, on a case-by-case basis, agreements to share confiscated assets, as a means to incentivise cross-border cooperation.

15. Adopt Recommendations of Report of Armenian Lawyers' Association and the CSO Anti-Corruption Coalition of Armenia

Strong consideration also should be given to adopting, with international technical support, the recommendations laid out in the 2020 report of the Armenian Lawyers' Association and the CSO Anti-Corruption Coalition of Armenia, *Civil Society Report on the Implementation of Chapter II (Prevention) and Chapter V (Asset Recovery) of the United Nations Convention against Corruption*. This report has highly useful insight, and implementation of its recommendations would bolster the Government of Armenia's standing in the overall fight against corruption, as well as in the important thematic areas of tracing, freezing, seizure, confiscation, recovery and management of assets linked to serious crimes.

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The United Nations Interregional Crime and Justice Research Institute (UNICRI) was established in 1968 pursuant to Economic and Social Council Resolution 1086 B (XXXIX) of 1965, which urged an expansion of the United Nations activities in crime prevention and criminal justice. The Institute is an autonomous institution and is governed by its Board of Trustees.

Working within the broad scope of its mandate to design and implement improved policies and actions in the field of crime prevention and control, the mission of UNICRI is to advance justice, crime prevention, security and the rule of law in support of peace, human rights and sustainable development.

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