

Interview of the chairperson of the Commission on Ethics of High-Ranking Officials with the show of Armenian Public Ratio on legal issues, “Your Counsel, Aram Vardevanyan”

**Report** – What are the main functions of the Commission on Ethics of High-Ranking Officials?

**Siranush Sahakyan** – The Commission on Ethics of High-Ranking Officials has three main functions. The first one is related to declaration system, within the framework of which the Commission manages the registry of declaration of high-ranking officials, receives declarations that include information on property and incomes of the officials and their affiliated persons. The Commission also ensures analysis and publicity of that information. The second function of the Commission is the revelation of violations of ethical rules, at that, not with regards to all high-ranking officials, but mostly the officials of the executive wing of government, and with regards to judges and prosecutors – if the violations are not related to professional ethics. As for ethical rules of mentioned parties, compliance with these is tracked by respective commission established for that purpose. The third function of the Commission is revelation of conflict of interest. Implementation of that function is mostly related to the officials of the executive wing of governance and does not cover members of the Parliament, judges and prosecutors.

**Reporter** – With regards to the circumstance that the Commission is not authorized to explore cases of violation of ethical rules by members of the Parliament, judges and prosecutors, and special agencies’ function in that direction, doesn’t that have negative impact on common objective in terms of efficiency from the standpoint of implementation of supervision of ethics?

**Siranush Sahakyan** – There can emerge certain problems, since there is a risk of fragmentation, but in any case the global practice develops in a direction, where due to peculiarities of services there need to be specific agencies. Particularly, there will be a very serious threat for the judicial power, if the commission on ethics answers questions related with professional ethics, while being outside of the judicial system. At the same time, due to electiveness and nature of works of the member of National Assembly, it will be preferable if the issues of their compliance with ethical rules are reviewed by respective commission of the legislature. With regards to the executive wing of governance, taking into consideration that commissions on ethics are established in the Republican agencies of executive governance too, there is need for a system ensuring integrity and unity of the system and with that regards there needs to be established an coordination and supervision agency. The Commission on Ethics of High-Ranking Officials can become such an agency given its role and potential. With that regards implementation of one of the preconditions related with the authorities of the Commission for provision of financial support to RA Government by the financial agreement on provision of EU

budget assistance implies assuming of the role of coordinating agency by the Commission on Ethics or establishing of another agency.

**Reporter** – From resource saving perspective it will be more efficient to assign that new authority to an already functioning entity, Commission on Ethics.

**Siranush Sahakyan** – Due to peculiarities of their role the international organizations do not want to recommend specific solutions to the public agencies, but as a potential agency they consider the Commission on Ethics of High-Ranking Officials. Similar model exists in many countries, for instance, during the visit to Lithuania we have seen, that this lead organization develops rules, which are being adapted by sectoral agencies, it overview that process, moreover, the decisions of sectoral agencies can be protests in the lead commission on ethics based on superiority order, thus ensuring integrity of application of the rules.

**Report** – Isn't there need for development of integrated ethical rules in Armenia?

**Siranush Sahakyan** – this is a delicate question, I believe the issue of need for ensuring integrated rules for all high-ranking officials is problematic. The Commission has had an opportunity to discuss this question with foreign experts, coming to a conclusion that setting integrated code of conduct for all high-ranking officials is not right due to peculiarities of the status of certain categories of officials. We cannot enchain an elective official and an official performing professional activities with the same code of conduct. Of course, we cannot expect a minister, who is a political official, to have the same level of political neutrality, as the one expected, for instance, from the heads of National Security Service or other law enforcement agencies. Thus, there can be integrated values and principles of public services. The maximum we can have are integrated rules, which are provisions of lower level, than values, and as for codes of conduct, these have to be adapted. It is preferable to develop codes of conduct for individual groups. We try to evolve in that direction. The Law did not specify the relationships of values, principles, rules and code of conduct and it is preferable to fix these high-level provisions in the Law as integrated values, principles, and to develop codes of conduct for individual groups. Currently we are developing the Code of Ethics of high-ranking officials of the Executive authorities.

**Reporter** – What does the concept of “conflict of interest” imply?

**Siranush Sahakyan** – The Law on Public Service defines several provisions on conflict of interest, where conflict of interest is characterized as guidance of an official by one's personal interests during decision making and performance of duties within the framework of one's authorities. More details on conflict of interest are also provided in Article 30 of the above-mentioned Law, which specifies further and sets several synchronous conditions, particularly: officials have to act within the framework of their authorities, make decisions or take actions,

has to improve the property or legal state of one or one's affiliated person as a result of made decision or action. Here importance is given to personal involvement in decision-making process regardless if that shall be an individual decision or a decision made in a collegial body, with partial displays.

Characteristics of conflict of interest in legislation of RA are not in line with international standards.

**Reporter** – Thus, this provision of the Law refers only to high-ranking officials. And what if a person, who is not “high-ranking”, but a state employee, and has certain decision-making authorities?

**Siranush Sahakyan** – This provision does not refer to public servants. It covers high-ranking officials, except judges, prosecutor members of parliament, since the provisions on conflict of interest of the latter are defined in sectoral legislation.

**Reporter** – Don't you that there is an issue of legislative regulations here? From this perspective it is interesting to know, what are the obstacles preventing effective implementation of its mission, activities by the Commission.

**Siranush Sahakyan** – Of course, there are obstacles. These are both legislative and organizational. As a positive tendency, I can note stakeholder individuals and agencies of the sector begin to understand the issues in more professional way. While in the past they were simply noising that there is an issue of order or lack of political will, currently they have been able to learn about the issues more thoroughly, study those and diagnose correctly. Currently the issues are separated, and many leading organizations of the sector, including Transparency International, alarm that most of the issues are legislative and we cannot expect high efficiency of the Commission's performance as long as these are not combined with legislative changes. Therefore, we can confidently state that the obstacles are unfavorable legislative regulations.

**Reporter** – Are there foreseen any changes in that respect?

**Siranush Sahakyan** – The Commission analyzed existing issues and developed a set of solutions for part of these. The Commission is not authorized to come up with legislative initiative and legislative solution of existing issues is possible via the Government, as a party of legislative initiative. The Commission has officially applied to the Government asking to support with regards to this issue. Particularly, on the initiative of the Commission there has been established an interagency working group, where this and several other issues are being discussed. As a result, based on to-be-developed document the Government can undertake steps towards solving of several issues.

The second issue is due to resources. As is known, the Commission has 5 members and no staff. At the same time, the number of employees of the staff of similar agencies working in RA is quite big. That is to say, all functions assigned to the Commission by Law are implemented by five members of the Commission. Resource constraints create serious issues for the Commission. There is also an issue related to ensuring financial independence of the Commission. Mentioned issues have been voiced both by the Commission and international organizations and recommendations regarding solutions for part of these have been presented to the Government.