

Economic and Monetary Issues

Introduction

The Armenian legislation in the field of economic and monetary issues, except for separate definitions, is mainly incompliant with the requirements of the EU legislation.

The EU legislation in the field of economic and monetary issues regulates issues concerning the prohibition of privileged access, credit facilities granted to the public sector by the Central Bank, free movement of capital, collection of statistical information by the Central Bank, powers of the Central Bank to impose sanctions, application of minimum reserves and implementation of excessive deficit procedure. The Armenian legislation regulating the field of economic and monetary issues encompasses the RoA laws on the Central Bank of Armenia¹, on the Budgetary System of Armenia², on Credit Institutions³, the Government Decree on Banking, Prudential Standards for Banking⁴ and other legal acts which do not cover the requirements of the EU legislation.

The EU legislation clearly prohibits any measure which enables “**privileged access**” to public organizations and undertakings, the Central Government, local and other public authorities. Any law, regulation or legal instrument adopted by the public authorities which imposes or encourages financial institutions to acquire and hold Government bonds by providing favourable conditions is considered a measure which establishes privileged access. Based on the screening results it should be underlined that there is a gap in the Armenian legislation in regard to the mentioned issue. There is a need to elaborate a draft government decree which would refer to all financial institutions and would regulate legal relations relating to privileged access.

The EU legislation prohibits the European Central Bank to grant credit facilities to the public sector which can result in the change of debit balance. The EU legislation clearly defines which credit facilities can be considered as such and they are separated from those credit facilities which are exceptions. In particular, trading of Government bonds by the Central Bank issued by other countries, one-day credit facilities granted by the Central Bank to regulate the exchange rate, repayment of debts of international organizations by the Central Bank are considered as exceptions. For regulation of legal relations related to this issue, amendments shall be made to the RoA Law on the Central Bank.

The EU legislation on free movement of capital clearly defines the nomenclature of operations considered as capital movement. High importance is attached to the exchange rate volatility entailed by considerable movement of capital within a short period, which can result in the failure of financial and monetary policy. The EU legislation specifies the potential safeguard measures which can be applied without negative effects. Based on the screening results it should be concluded that framework provided by the RoA Law on Currency Regulation and Currency Control is fully liberalized. The Armenian legislation in this field should be considerably amended. The nomenclature of types of foreign investments and ways for investment specified in the Law on Foreign Investments should be amended. Furthermore, the Law should encompass a separate part dedicated to evading potential exchange rate volatility entailed by considerable inflows of foreign capital carried out within a short period. The regulation of legal relations concerning winding up of local banks is also an issue related to this.

¹ HO-69, 30.06.1996

² HO -137, 24.06.1997

³ HO -169, 03.04.2001

⁴ 237-N, 20.09.2004

The EU legislation also regulates legal relations relating to the collection of statistical information by the European Central Bank. This incorporates prudential rules which specify sizes of national economy, classification of subdivision “The Central Bank” and of monetary and other financial institutions, requirements, regulation, confidentiality related to statistical reports and imposition of sanctions. Based on the screening results it should be concluded that the Armenian legislation in this field is rather incomplete and needs to be amended. A new regulation should be elaborated which would regulate the legal relations related to the collection of statistical information by the Central Bank.

Although the RoA Law “On the Central Bank” and the Resolution of the Central Bank Board “On imposing sanctions, proceedings and disclosure on legislative violations by banks and foreign bank branches or their managers” regulate legal relations of imposing sanctions by the Central Bank, there is still a need to make amendments for approximating with the requirements of the EU legislation.

The EU legislation on minimum reserves sets out the procedure for calculating minimum reserves. Financial institutions subject to minimum reserve and their liabilities are specified by separate articles, which serve as a basis for the calculation of minimum reserves. Financial institutions and liabilities considered as exceptions are also specified. Based on the screening results it should be concluded that there are considerable differences in the requirements of the Armenian legislation and that of the EU. In accordance with the Resolution of the Central Bank Board on Banking, Prudential Standards for Banking, the minimum amount of reserve of foreign banks and banks operating in the territory of Armenia is fixed at 6% of the total capital. The EU legislation does not envisage a specific interest rate for reserves. In the EU, the minimum reserve ratio is calculated based on the following principle: the reserve ratio is defined 0% for bonds, agreed deposits, REPOs with more than 2-year maturity period. The reserve ratio for other liabilities is fixed at 2%. The minimum reserve ratio for financial institutions is calculated by the method of weighted average based on the share of various liabilities. Moreover, the share of any of the separate liabilities considered to be a basis for reserve must not exceed 10% of any other liabilities subject to reserve. There are considerable differences in the legislation of the EU and that of Armenia in terms of the period in question. For approximating the Armenian legislation on minimum reserves, amendments shall be made to the RoA Law on the Central Bank and the Resolution of the Central Bank Board on Banking, Prudential Standards for Banking.

Based on the screening results it can be concluded that the legislation regulating the legal relations relating to the procedure of excessive deficit is rather incomplete. The RoA Law on Budgetary System of Armenia defines the size of excessive deficit; however a considerable number of definitions are missing. In particular, the EU legislation regulates also legal relations related to cases when the actual size of the excessive deficit is above the established threshold. The Armenian legislation does not stipulate such thresholds. For a detailed regulation, amendments shall be made to the Armenian legislation in accordance with the EU requirements.

Within the framework of the Programme, the subchapter “Economic and Monetary Issues” shall be completely approximated with the requirements of the EU legislation by 2009.

Y2007

The Armenian legislation on economic and monetary issues shall be approximated with the Regulations No. 3603/93 of 22 November 1993, No. 3604/93 of 13 December 1993, EU Council Regulations No. 2533/98 of 23 November 1998 and Council Directive⁵ No. 88/361/EEC of 7 June 1998.

For legal regulation of issues related to the application of the prohibition of privileged access, a draft government decree shall be elaborated, which will regulate legal relations relating to the acquisition and holding of ordinary Government bonds and other liabilities by financial institutions.

The EU legislation, in accordance with Council Directive No. 88/361/EEC of 7 June 1998, prohibits the Central Bank to grant credit facilities to the public sector which can result in the change of debit balance. For the regulation of legal relations related to this issue, amendments shall be made to the RoA Law on the Central Bank of Armenia.

To bridge the gap in legislative regulation of issues concerning free movement of capital, amendments shall be made to the RoA Law on Foreign Investment pursuant to the Council Regulation No. 3603/93 of 13 December 1993.

For the regulation of legal issues as regards collection of statistical information by the Central Bank, a draft Regulation of the Central Bank of Armenia shall be elaborated.

Y2008

The Armenian legislation on economic and monetary issues shall be approximated with Council Regulations No. 3605/93 of 22 November 1993, No. 1467/97⁶ of 7 July 1997, No. 2531/98 and 2532/98 of 23 November 1998, European Central Bank Regulation No. 2157/1999 of 23 September 1999 and No. 1745/2003 of 12 September 2003⁷.

To approximate the legal relations relating to excessive deficit procedure with the requirements of the Council Regulation No. 3605/93 of 22 November 1993 and No. 14/67/1997 of 7 July 1997, amendments shall be made to the RoA Law on Budgetary System and a draft Law on Excessive deficit procedure shall be elaborated.

For the approximation of legal relations on imposition of sanctions by the Central Bank of Armenia with the requirements of EU Council Regulation No. 2532/98 of 23 November 1998 and the Regulation of the European Central Bank No. 2157/1999 of 23 September 1999, amendments shall be made to the RoA Law on the Central Bank of Armenia and the

⁵ Council Regulation (EC) No. 3603/93 of 13 December 1993 specifying definitions for the application of the prohibitions referred to in Articles 104 and 104b (1) of the Treaty

Council Regulation (EC) No. 3604/93 of 13 December 1993 specifying definitions for the application of the prohibition of privileged access referred to in Article 104a of the Treaty

Council Regulation (EC) No. 2533/98 of 23 November 1998 concerning the collection of statistical information by the European Central Bank

Council Directive 88/361/EEC of 24 June 1988 for the implementation of Article 67 of the Treaty

⁶ Council Regulation (EC) No. 3605/93 of 22 November 1993 on the application of the Protocol on the excessive deficit procedure annexed to the Treaty establishing the European Community

⁷ Council Regulation (EC) No. 2531/98 of 23 November 1998 concerning the application of minimum reserves by the European Central Bank

Council Regulation (EC) No. 2532/98 of 23 November 1998 concerning the powers of the European Central Bank to impose sanctions

European Central Bank Regulation (EC) No. 2157/1999 of 23 September 1999 on the powers of the European Central Bank to impose sanctions (ECB/1999/4)

Regulation (EC) No. 1745/2003 of the European Central Bank of 12 September 2003 on the application of minimum reserves.

Resolution of the Armenian Central Bank Board No. 71 of 19 March 2002 on imposition of sanctions, proceedings procedures and disclosure of legislative violations by banks and foreign bank branches or their managers.

In an effort to approximate the legal relations concerning the application of minimum reserves by the Central Bank of Armenia with the requirements of Council Regulation No. 2531/98 of 23 November 1998 and the Regulation of the European Central Bank No. 1745/2003 of 13 September 2003, amendments shall be made to the RoA Law on the Central Bank of Armenia and the Resolution of the Armenian Central Bank Board No. 237 of 20 September 2004 on Banking and Prudential Standards for Banking.

1. Legislative Approximation

0	1	2	3	4	5	6
NN	Measure	EU Legal Source	Responsible Institutions	Submission Date	Necessary Resources (man/days)	EU Technical Assistance
2007						
1.	Elaboration of a draft law on making amendments to the RoA Law on the Central Bank	Council Regulation (EC) No. 3604/93 of 13 December 1993 specifying definitions for the application of the prohibition of privileged access referred to in Article 104a of the Treaty	Ministry of Finance and Economy of Armenia (with participation of the Central Bank of Armenia)	1 st quarter	15	
2.	Elaboration of a draft law on making amendments to the RoA Law on the Central Bank	Council Directive No. 88/361/EEC of 24 June 1988 for the implementation of Article 67 of the Treaty	Ministry of Finance and Economy of Armenia	1 st quarter	18	
3.	Elaboration of a draft law on making amendments to the RoA Law on Foreign Investments	Council Regulation (EC) No. 3603/93 of 13 December 1993 specifying definitions for the application of the prohibitions referred to in Articles 104 and 104b (1) of the Treaty	Central Bank of Armenia	2 nd quarter	15	

4.	Elaboration of a draft law on making amendments to the RoA Law on the collection of statistical information by the Central Bank	Council Regulation (EC) No 2533/98 of 23 November 1998 concerning the collection of statistical information by the European Central Bank	Central Bank of Armenia (with participation of the National Statistical Service of Armenia)	2 nd quarter	33	Consultancy
TOTAL					81	
2008						
5.	<ul style="list-style-type: none"> • Elaboration of a draft law on making amendments to the RoA Law on the Central Bank • Elaboration of a draft on making amendments to the Resolution of the Central Bank Board of Armenia on imposing sanctions, proceedings procedures and disclosure on legislative violations of by banks and foreign bank branches or their managers 	<p>Council Regulation (EC) No. 2532/98 of 23 November 1998 concerning the powers of the European Central Bank to impose sanctions</p> <p>European Central Bank Regulation (EC) No. 2157/1999 of 23 September 1999 on the powers of the European Central Bank to impose sanctions</p>	<p>Ministry of Finance and Economy of Armenia</p> <p>(with participation of the Central Bank of Armenia)</p>	1 st quarter	45	
6.	<ul style="list-style-type: none"> • Amendments to the RoA Law on the Central Bank • Elaboration of a draft on making amendments to the 	Council Regulation (EC) No. 2531/98 of 23 November 1998 concerning the application of minimum	Central Bank of Armenia	2 nd quarter	33	

	Resolution of the Central Bank Board of Armenia on Banking, Prudential Standards for Banking	reserves by the European Central Bank Regulation (EC) No. 1745/2003 of the European Central Bank of 12 September 2003 on the application of minimum reserves				
7.	<ul style="list-style-type: none"> • Elaboration of a draft law on excessive deficit procedure • Elaboration of a draft law on making amendments to the RoA Law on the Budgetary System of Armenia 	<p>Council Regulation (EC) No. 3605/93 of 22 November 1993 on the application of the Protocol on the excessive deficit procedure annexed to the Treaty establishing the European Community</p> <p>Council Regulation (EC) No. 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure</p>	Ministry of Finance and Economy of Armenia	4 th quarter	27	Consultancy
TOTAL					105	
TOTAL					186	

2. Institutional Capacities

0	1	2	3	4
NN	Institution	Reorganization	Training Needs	Technical Assistance Needs
1.	Central Bank of Armenia National Statistical Service of Armenia	-	Training course on the collection of statistical information by the Central Bank (5 days/ 2007)	Consultancy
2.	RoA Ministry of Finance and Economy	-	Training course on the implementation of excessive deficit procedure (3 days/ 2008)	Consultancy
3.	RoA Ministry of Justice State Commission for Protection of Economic Competition of Armenia	-	Training course on the regulation of concentrations in the EU (2007-2008)	Consultancy