



Anti-Corruption & Bribery Comparative Guide



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Law firm

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1. Legal and enforcement framework

1. 1. Which legislative and regulatory provisions govern anti-corruption in your jurisdiction, from a regulatory (preventive) and enforcement (criminal) perspective?

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Anti-corruption in Armenia is regulated by the following laws:

- the Law on Seizure of Property of Illegal Origin;
- the Law on the Anti-corruption Committee;
- the Law on the Corruption Prevention Commission (CPC);
- the Law on Public Service;
- the Law on Combating Money Laundering and Terrorist Financing;
- the Law on Whistleblowing Mechanisms;
- the Criminal Code; and
- the Criminal Procedure Code.

1. 2. Which bilateral and multilateral instruments on anti-corruption have effect in your jurisdiction?

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Armenia is a signatory to the following international anti-corruption conventions:

- the United Nations Convention against Corruption;
- the Criminal Law Convention on Corruption;
- the Additional Protocol to the Criminal Law Convention on Corruption; and
- the Civil Law Convention on Corruption.

1. 3. Are there accessible directives or other guidance from enforcement authorities in your jurisdiction?

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No.

1. 4. Which bodies are responsible for enforcing the applicable laws and regulations? What powers do they have?

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The following national bodies are responsible for enforcing the applicable law and regulations:

- The main function of the Investigative Committee is to investigate alleged corruption crimes that fall within its jurisdiction.
- The National Security Service is responsible for investigating corruption crimes where certain criteria are met.
- Among other things, the CPC:
 - maintains the Declaration Register and analyses and publishes declarations;
 - detects conflicts of interest of high-ranking officials;
 - detects violations of ethics rules by high-ranking officials;
 - submits recommendations on the elimination and prevention of conflicts of interest and violations of ethics rules;
 - publishes information on the detection of violations of ethics rules and conflicts of interest; and
 - issues the requirements for the filing of declarations and the procedure for their submission.
- The Anti-corruption Committee has not yet been established and the Law on the Anti-corruption Committee will not come into force until the committee has been established. Under the law, the Anti-corruption Committee is an investigative body which will investigate corruption crimes and conduct operational intelligence activities.
- The Central Bank of Armenia is responsible for issuing secondary regulatory acts to regulate the fight against money laundering and terrorist financing.

1. 5. What are the statistics regarding past and ongoing anti-corruption procedures in your jurisdiction?

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According to statistics provided by the Prosecutor General's Office:

- 1,469 criminal cases were initiated to investigate corruption in 2018;
- 1,399 such cases were initiated in 2019; and
- 1,232 such cases were initiated in 2020 – a drop of 11.9% on the previous year.

The cases initiated in 2019 included six investigations against money laundering. This figure rose to 14 in 2020.

In 2019, 18 investigations into commercial bribery were launched. This number dropped to eight in 2020.

In 2019, 133 criminal cases were initiated to investigate the acceptance of bribes. This figure fell to 80 in 2020.

In 2019, 14 criminal cases were initiated to investigate the offer of bribes. This number increased to 16 in 2020.

1. 6. What are the shortcomings identified in your jurisdiction's anti-corruption legislation (including recommendations of the Organisation for Economic Co-operation and Development, where applicable)?

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A 2019 report issued by the Organisation for Economic Co-operation and Development identified several shortcomings in the Armenian anti-counterfeiting regime and proposed the following recommendations:

- Limit the influence of political officials in recruitment for senior civil service positions;
- Conduct comprehensive and large-scale programmes to raise awareness and train civil servants on the new legal framework, with a special emphasis on state bodies that did not previously belong to the civil service;
- Immediately introduce liability for legal entities for corruption offences in line with international standards, enable law enforcement agencies to effectively pursue corruption cases against legal entities and ensure the proportionality of sanctions in corruption cases;
- Remove existing limitations on accessing financial information from financial institutions for the purposes of investigating and prosecuting corruption offences and other financial crimes in line with international standards;
- Ensure that law enforcement agencies have effective electronic access to asset declarations, tax, customs, marriage, birth, travel and other state databases;
- Consider developing criteria that impose limitations on the prosecutor general's absolute power to transfer cases;
- Consider developing and adopting plea bargaining legislation and policies and guidelines on its implementation; and
- Continue to strengthen capacity for fighting corruption by ensuring and guaranteeing the institutional, functional and financial independence of law enforcement agencies.

2. Definitions and scope of application,

2. 1. How is 'public corruption' or 'bribery of a public official' defined in the anti-corruption legislation?

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The Criminal Code provides that offering a bribe to a public official constitutes a crime. This defined as promising, offering or giving money, goods, property rights, securities or other advantages to a public official, either personally or through an intermediary, in exchange for:

- conducting an act or omission whose performance is within the authority of that public official;
- promoting the realisation of such act or omission by virtue of the position held by that public official; or
- pursuing general proactivity or inactivity with respect to the public service in which that public official is engaged.

The qualification applies regardless of the beneficiary, which can be either the party offering the bribe or any other person designated by the latter.

Bribery of public officials is punishable by:

- fines of between AMD 100,000 and AMD 200,000;
- detention for between one and three months; and
- imprisonment for up to three years.

The sanctions may be more severe in case of aggravating circumstances, such as where:

- the amount of the bribe exceeds AMD 200,000 or AMD 1 million; or
- the bribe is paid by an organised group.

However, if the bribe has been offered as a result of extortion by the public official, the party that pays the bribe will be exonerated from criminal responsibility if he or she turns himself or herself in to the law enforcement agencies and assists them in uncovering the crime, as long as this happens:

- before the law enforcement agency learns of the crime independently; and
- within three days of committing the crime.

2. 2. How is a 'public official' defined in the anti-corruption legislation? How is a 'foreign public official' defined?

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The Criminal Code sets out a list of public officials who may be considered as the targets of bribery. They include, in particular:

- persons who hold the function of a government representative, whether permanently, temporarily or with separate authority;
- persons who hold functions in state bodies, local self-government bodies or their organisations, the armed forces or other troops or military units of Armenia, whether permanently or temporarily; and
- persons who hold organisational, managerial or administrative functions in such bodies with separate authority.

The provisions criminalising bribery define 'foreign officials' as follows:

- persons performing the functions of a state official in accordance with the domestic law of a foreign state and members of a representative body of a foreign state legislative or administrative authority;
- officials of an international or supranational public organisation or body or, in cases provided for by the regulations of that organisation or body, contract employees or other persons performing functions corresponding to those performed by such officials or employees;
- members of an international or supranational organisation, parliamentary assembly or other body carrying out such functions;
- members or officials of international courts whose jurisdiction has been adopted by Armenia; and
- judicial officers of foreign courts.

2. 3. How is 'private corruption' or 'bribery in the private sector' defined in the anti-corruption legislation?

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The provisions on private corruption or bribery in the private sector recognise commercial bribery as an offence.

The individuals who are covered by these provisions include:

- employees of a commercial or other organisation;
- arbitrators;
- auditors; and
- attorneys.

Employees of a commercial or other organisation are those individuals who – permanently, temporarily or based on special authority – exercise executive or other managerial functions or occupy any other position in the commercial organisation, irrespective of its ownership, or in a non-commercial organisation which is not a governmental or local body; or a department of such bodies.

‘Commercial bribery’ is defined as illegally promising, offering or giving individuals covered by the respective provisions money, property rights, securities or any other advantages in exchange for an act or omission in favour of the briber or another specified person.

Commercial bribery is punished by:

- fines of between AMD 200,000 and AMD 400,000;
- a prohibition against occupying certain positions or undertaking certain activities for up to three years; and
- imprisonment for up to three years.

Employees of commercial or other organisations, arbitrators, auditors and attorneys can be held liable for accepting, promising to accept, requesting or agreeing to an offer to accept a bribe.

The penalties may be more severe in case of aggravating circumstances, such as where the bribe is paid by a group of individuals based on a premeditated agreement or by an organised group

The penalties for those accepting bribes include:

- fines of between AMD 200,000 and AMD 400,000;
- a prohibition against occupying certain positions for up to three years; and
- imprisonment for up to three years.

The penalties may be more severe in case of aggravating circumstances, such as accepting a bribe due to extortion.

However, if the bribe has been offered as a result of extortion, the party that pays the bribe is exonerated from criminal responsibility if he or she turns himself or herself into the law enforcement agencies and assists them in uncovering the crime, as long as this happens:

- before the law enforcement agency learns of the crime independently; and
- within three days of committing the crime.

2. 4. How is ‘bribe’ defined in the anti-corruption legislation?

There is no one single definition of the term 'bribe'. However, a definition may be inferred from the formulations of other provisions.

Thus, 'bribery' may be defined as promising, offering or giving money, goods, property rights, securities or other advantages to a person, either personally or through an intermediary, in exchange for:

- conducting a certain act or omission;
- promoting the realisation of such an act or omission; or
- pursuing general proactivity or inactivity.

2. 5. What other criminal offences are identified and defined in the anti-corruption legislation?

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The Criminal Code contains a separate list of corruption crimes, which include the following:

- bribery of voters, acceptance of bribes, violation of the ban on donations during elections or obstruction of the exercise of voters' free will;
- facilitation of electoral bribery;
- large-scale illegal donations in favour of a political party;
- contravention of the ban on donations over a certain threshold prescribed by law or large-scale circumvention of the ban on donations from sources not recognised by law;
- fraud committed through an official position;
- embezzlement or waste committed through an official position;
- creation, organisation or management of a pyramid scheme through an official position;
- legalisation of criminally obtained property (money laundering);
- unscrupulous use of inside information conducted through an official position;
- price abuse conducted through an official position;
- anti-competitive activities conducted through an official position;
- commercial bribery;
- bribery of participants and organisers of professional sports or commercial spectator competitions;
- abuse of authority by employees of commercial or other organisations;
- abuse of official authority;
- conduct beyond the scope of an official authority;
- illegal participation in entrepreneurial activity;
- illegal enrichment;
- receipt of illegal remuneration by a public servant holding a public position who is not an official;
- using real or perceived impact,
- provision of illegal remuneration to a public official or a public servant who is not an official;
- facilitation of bribery;
- official forgery;
- deliberate failure to submit declarations to the Corruption Prevention Commission;
- submission of false information in declarations or concealment of data that is subject to declaration;
- obstruction of the administration of justice and investigation through an official position; and
- issue of an obviously unfair verdict or other judicial act.

2. 6. Can both individuals and companies be prosecuted under the anti-corruption legislation?

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According to the general criminal regulations, only individuals can be held criminally liable in Armenia. There is no criminal responsibility for legal entities. Thus, companies cannot be prosecuted under anti-corruption or other laws.

2. 7. Can foreign companies be prosecuted under the anti-corruption legislation?

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Companies cannot be prosecuted under Armenian law. However, private individuals holding certain positions in both domestic and foreign companies can be prosecuted.

2. 8. Does the anti-corruption legislation have extraterritorial reach?

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According to the Criminal Code, where Armenian citizens or stateless persons who permanently reside in Armenia commit crimes outside the territory of Armenia, they will be subject to criminal liability under the Criminal Code if:

- the acts they commit are recognised as a crime under the law of the state in which the crime is committed; and
- they are not convicted in another state.

When convicting such persons, the punishment cannot exceed the upper limit for punishment in the state in which the crime was committed.

Citizens and permanent residents of Armenia and stateless persons who commit money laundering, give or receive a bribe, commit commercial bribery or facilitate bribery outside the territory of Armenia will be subject to criminal liability in Armenia, regardless of whether that act is recognised as a crime under the law of the state in which it is committed.

Foreign citizens and stateless persons who do not permanently reside in Armenia and who commit a crime outside the territory of Armenia will be subject to criminal liability under the Criminal Code if the crime they commit:

- is recognised in an international treaty to which Armenia is a party; or
- is a grave or particularly grave offence directed against the interests of Armenia or the rights and freedoms of Armenian citizens.

These rules also apply to corruption crimes.

3. Corruption and bribery

3. 1. How are gifts, hospitality and expenses treated in your jurisdiction?

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According to the Law on Public Service, the concept of a ‘gift’ implies any advantage related to property interests that would not reasonably be granted to a person who did not hold the position in question. It also includes:

- ceded claims;
- surrender of claims without compensation or at an apparently disproportionately low price;
- the transfer of property without compensation or the sale of property at an apparently disproportionately low price;
- services rendered or work carried out at an apparently disproportionately low price;
- preferential loans;
- gratuitous use of another’s property; and
- other actions as a result of which a person derives benefit or advantage.

Persons who hold public positions and public servants must not accept, or agree to accept in the future, any gift if it is connected with the performance of their official duties.

The Law on Public Service allows persons holding public positions and public servants to accept the following gifts in connection with the performance of their official duties:

- gifts given or hospitality organised during state or official visits or events, as well as work visits;
- gifts usually given during public events;
- commonly organised hospitality;
- materials provided free of charge for official use;
- scholarships, grants or benefits awarded in a public competition on the same conditions and criteria as those that apply to the other applicants, or as a result of another transparent process; and
- ceremonial gifts given by foreign states and international organisations.

With regard to the first, second, fourth and sixth points above, where the value of a gift accepted by a person holding a public position or a public servant exceeds AMD 60,000, it will be deemed to be the property of the state or community and will be registered as such. Persons holding public positions and public servants must transfer such gifts to the state or community as prescribed by the government.

3. 2. How are facilitation payments treated in your jurisdiction?

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In certain cases, facilitation payments are used to expedite communications with state organs. Where facilitation payments are not prescribed by law or by secondary regulatory acts, they will be considered to constitute bribery.

3. 3. How is bribery through intermediaries and other third parties treated in your jurisdiction? Can those third parties be held liable?

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Bribery through intermediaries and/or other third parties is criminalised under the Criminal Code. Third parties can be held liable. In particular, according to the Criminal Code, facilitation of bribery may involve:

- promoting the agreement between the offeror of the bribe and the recipient of the bribe; or
- implementing a previously reached agreement.

The Criminal Code recognises aggravating circumstances, such as commission of the crime through use of an official position.

Commission of such crimes may be punished by:

- fines of between 100 and 200 minimum salaries;
- detention for up to two months; and
- imprisonment for up to three years.

If the crime involves aggravating circumstances, the penalties include:

- fines of between 200 and 400 minimum salaries;
- detention for between one and three months; and
- imprisonment for between two and five years.

3. 4. Can a company be held liable for bribery committed by management or other employees?

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A company cannot be held criminally liable in Armenia.

3. 5. Can a company be held liable for bribery committed by domestic or foreign subsidiaries?

Armenia

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A company cannot be held criminally liable in Armenia.

3. 6. Post-merger or acquisition, can a successor company be held liable for bribery committed by legacy companies?

Armenia

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A company cannot be held criminally liable in Armenia.

4. Compliance

4. 1. Is implementing an anti-corruption compliance programme a regulatory requirement in your jurisdiction?

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Only legal entities and persons that carry out certain types of activities are legally obliged to implement an anti-money laundering compliance programme. They include:

- banks;
- credit organisations;
- persons engaged in foreign exchange trading;
- persons making money transfers;
- investment service providers;
- the Central Depository;
- insurance (including reinsurance) companies and insurance (including reinsurance) intermediaries;
- corporate investment funds;
- pawnshops;
- realtors;
- notaries;
- advocates, as well as individual entrepreneurs and legal entities providing legal services;
- individual entrepreneur accountants and legal entities carrying out accounting activities;
- audit firms and auditors;
- precious metal dealers;
- gemstone dealers;
- art dealers;
- auction organisers;
- organisers of casinos, gambling services (including online gambling) and lotteries;
- persons providing services relating to trust management and the registration of legal entities; and
- credit bureaux.

4. 2. What compliance best practices should a company implement to mitigate the risk of anti-corruption violations?

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The Armenian legislation on combating money laundering and terrorist financing sets out the minimum standards that company policies must meet, including:

- the procedures for the proper examination of clients;
- the documents and other information required for the proper examination of clients;
- the procedures of the internal monitoring body;

- the procedures for collecting, registering and maintaining information on transactions and business relationships;
- the procedures for classifying transactions or business relationships as suspicious; and
- the procedures for reporting to the authorities.

4. 3. Which books and records requirements have relevance in the anti-corruption context?

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The Central Bank of Armenia establishes reporting procedures for almost all organisations that are subject to the Armenian anti-money laundering legislation. These procedures are additional to the policies mentioned in question 4.2

4. 4. Are companies obliged to report financial irregularities or actual or potential anti-corruption violations?

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Companies that are subject to the anti-money laundering legislation must report any financial irregularities or actual or potential anti-corruption violations relating to money laundering or terrorist financing.

4. 5. Does failure to implement an adequate anti-corruption programme constitute a regulatory and/or criminal violation in your jurisdiction?

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Failure to implement an adequate anti-money laundering programme does not constitute a criminal violation, except in the case of failure to report on preparations for a grave crime. However, the absence of a proper anti-money laundering programme will incur administrative liability.

5. Enforcement

5. 1. Can companies that voluntarily report anti-corruption violations or cooperate with investigations benefit from leniency in your jurisdiction?

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Companies cannot be subject to criminal liability in Armenia. If a legal entity voluntarily reports anti-corruption violations, it may be engaged in a criminal case as a victim. If the case does not concern the legal entity which reported it, most likely its representatives or the individual who reported the violation on its behalf will participate in the criminal proceeding as a witness.

A legal entity as such cannot benefit from reporting or cooperation, as it cannot be held criminally liable. However, according to the Criminal Procedure Code, individuals accused of committing a crime who cooperate with the investigation can benefit from leniency. This is a relatively new regime which entered into force in 2020.

5. 2. Can the existence of an anti-corruption compliance programme constitute a defence to charges of anti-corruption violations?

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No.

5. 3. What other defences are available to companies charged with anti-corruption violations?

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A legal entity itself cannot be charged with anti-corruption violations. Defences are available for certain individuals who commit crimes on behalf of a legal entity.

Within the framework of criminal proceedings, individuals have rights guaranteed by the Constitution, international legal regulations and the Criminal Procedure Code. These rights and fundamental freedoms include:

- the right to a fair trial;
- the right to effective defence; and
- the right to an adversarial proceeding.

5. 4. Can companies negotiate a pre-trial settlement through plea bargaining, settlement agreements or similar?

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As companies are not subject to criminal liability in Armenia, pre-trial plea bargaining is not relevant.

5. 5. What penalties can be imposed for violations of the anti-corruption legislation? Can non-exhaustive penalties be imposed for such violations (eg, exclusion from public procurement, exclusion from entitlement to public benefits or aid, disqualification from the practice of certain commercial activities, judicial winding up)?

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The penalties and sanctions for corruption crimes are set out in questions 2.1, 2.3. and 3.3.

Legal entities and persons that are found guilty of such crimes may also be prohibited from participating in procurement procedures.

5. 6. What is the statute of limitations to prosecute anti-corruption violations in your jurisdiction?

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No answer submitted for this question.

6. Trends and predictions

6. 1. How would you describe the current anti-corruption enforcement landscape and prevailing trends in your jurisdiction? Are any new developments anticipated in the next 12 months, including any proposed legislative reforms?

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Anti-corruption reforms and the introduction of new mechanisms in this context are a significant focus of Armenian policy. As a result of legislative amendments enacted in recent years, proceedings against illegal enrichment have been introduced as a separate judicial process. While the details of such proceedings remain unknown, it is understood that about 100 are currently under preparation. However, we believe that the Law on Illegal Enrichment contains several unconstitutional provisions and thus will not remain in force.

As a result of several reforms to the law enforcement system, the Anti-corruption Committee is in the process of being set up and will commence operations as soon as it has been established.


In addition, the National Assembly has adopted a new Criminal Code which will enter into force in July 2022 (with certain provisions coming into force at a later date). The new Criminal Code provides for the criminal liability not only of private individuals, but also of legal entities – primarily in relation to economic, white collar and corruption crimes. As the criminal liability of legal entities has not previously been recognised in Armenia, no predictions on the new regime can be made at this stage. The new Criminal Code provides for the criminal liability of both domestic and foreign companies starting from 2023.

7. Tips and traps

7. 1. What are your top tips for the smooth implementation of a robust anti-corruption compliance programme and what potential sticking points would you highlight?

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Regardless of whether mandatory requirements apply in this regard, companies operating in Armenia should implement comprehensive anti-corruption policies which comply with the requirements of law and the procedures approved by the Central Bank



While at present only certain types of organisations are required to have an anti-corruption policy in place (see question 4.1), Armenian law continues to evolve and anti-corruption regulations are becoming more stringent, so other companies may well be required to introduce such policies in future■

Therefore, organisations should not only comply with anti-money laundering policies, but also develop their own broader anti-corruption policies.



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