

## Doing Business in Armenia: overview

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### OVERVIEW

#### 1. What are the key recent developments affecting doing business in your jurisdiction?

Armenia's "velvet revolution" change of government in 2018 brought significant changes to all aspects of life in the country, including doing business. The change of government was followed by adoption of a number of new laws and implementation of new policies and practices.

One of the main changes brought by the new government was the Law on Confiscation of Illegal Property, which sets out processes for confiscating property acquired through illegal channels or illegal means. Confiscation is conducted by a civil court, with a lower burden of proof than in criminal processes. The process is directed at the illegal property rather than at the owner, and a bona fide owner is only protected in limited cases. Before commencing business relationships, acquiring a property or structuring a business in Armenia, investors should carry out extended due diligence to ensure that the business or property will not be affected by the implications of this law. However, there is no court practice as yet and so the real impact will only be possible to evaluate in several years' time.

The business environment was also affected by the 2019 novel coronavirus disease (COVID-19) outbreak. As throughout the world, businesses have had to face risks related to increased digital operations, including compliance with applicable employment laws in relation to proxy working and work supervision.

On 27 September 2020, Azerbaijan began intense shelling in the disputed territory of Nagorno-Karabakh, which has resulted in escalation of an active war between Azerbaijan and the self-proclaimed Republic of Artsakh, with certain incidents occurring in Armenia. All three countries have enacted martial law, which imposes certain limitations on individuals and businesses, and a general military mobilisation is ongoing (including in Armenia). As of the date of publication, the heated clashes in the territory of Artsakh continue. This has affected the day-to-day life and business environment of the country, and the full impact still remains to be seen.

### LEGAL SYSTEM

#### 2. What is the legal system based on (for example, civil law, common law or a mixture of both)?

Amendments to the Armenian Constitution came into force in 2018 and Armenia is now a parliamentary, unitary republic with a civil law system. At the same time, Armenian legal practice also has some common-law elements, in line with developments in several major civil law jurisdictions. Since 2007, the reasoning contained in decisions of the Armenian Court of Cassation (including interpretations of law), the Constitutional Court and the European Court of Human Rights (ECHR) are binding on all courts. In complicated cases, it is becoming common practice for litigators to

refer to the decisions of the ECHR and the Court of Cassation, but also to the decisions of lower courts (mostly the courts of appeal).

The judiciary has three tiers:

- Courts of first instance (including both courts of general jurisdiction and specialised courts).
- Courts of appeal.
- Court of Cassation, whose main purposes are ensuring the uniform implementation of law and dealing with constitutional matters.

There are also special administrative courts (based on the German example) and insolvency courts. In addition, the government has circulated draft amendments on the establishment of special anti-corruption courts.

The administrative law system is shaped by the German example, where the law on the fundamentals of administration and the administrative process forms the core, while the particularities of different processes are described in sectoral legislation. The state administration has adopted e-gov systems, although these are still in the process of further development.

The Armenian Civil Code is based on the Napoleonic Code, while the Civil Procedure Code (the latest version of which was enacted in 2018) is based on adversarial processes, with limited exceptions (mostly on family and labour law issues).

There are some international treaties on the recognition of foreign judicial processes. Since 2018, Armenia also recognises foreign judicial decisions based on the principle of reciprocity in the absence of a relevant treaty. This recognition covers final decisions as well as interim measures.

There is modern arbitration (in line with the UNCITRAL model law) and mediation legislation, and Armenia has ratified the:

- UN Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958 (New York Convention).
- UN Convention on International Settlement Agreements Resulting from Mediation 2018 (Singapore Convention).

There are also around 40 bilateral investment treaties (BITs).

The Armenian Law on Foreign Investment also secures the general guarantees available in modern international law.

Armenia is member of the Eurasian Economic Union (along with Russia, Belarus, Kyrgyzstan and Kazakhstan), as well as the World Trade Organisation. There are more than 40 treaties on the avoidance of the double taxation.

Armenia is a member of the HCCH Convention Abolishing the Requirement of Legalisation for Foreign Public Documents 1961 (Apostille Convention).

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## FOREIGN INVESTMENT

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### 3. Are there any restrictions on foreign investment (including authorisations required by central or local government)?

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The Armenian market is open to foreign investors. The Law on Foreign Investment, along with bilateral investment treaties (BITs) (of which there are around 40), are the main sources of regulations on foreign investment. The Armenian legislation also provides a number of internationally recognised protections for foreign investors.

There are no general restrictions on foreign holdings in local companies and no requirements to have a resident shareholder or manager registered in Armenia. However, there are some specific limitations:

- In principle, the activities of some foreign investors and legal entities with foreign investments can be restricted in some territories and sectors on the grounds of national security. However, no such limitations are currently enacted.
- In practice, there is a strict limitation on foreign investment in broadcasting. Under the Law on TV and Radio, at least 50% of the shareholdings in television and radio companies, as well as private multiplexers must belong to or be ultimately controlled by Armenian nationals.
- Under the Law on Energy, a sale of shares of a licensed entity operating in the energy sector can be prohibited if it is contrary to Armenian state security. As the definition is rather broad, this may be deemed to be applicable to foreign investment.
- Some limitations apply to financial institutions.
- Operations relating to gambling and games of chance can only be organised by commercial legal entities that are established by Armenian nationals in Armenia.

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### 4. Are there any restrictions on doing business with certain countries or jurisdictions?

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There are no established restrictions on doing business with specific countries or jurisdictions. However, investments from certain countries can in principle be prohibited for state security reasons (see *Question 3*).

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### 5. Are there any exchange control or currency regulations?

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The circulation of foreign currency within Armenia is regulated and there are certain restrictions on the use of foreign currency in transactions, especially for cash payments. The restrictions also apply to foreign direct investments, which must be made in local currency.

However, the exchange control regime is liberal. The national exchange rate is floating, with the Central Bank of Armenia intervening in critical situations by direct participation in the market or by reviewing the regulations.

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### 6. What grants or incentives are available to investors?

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There are no direct incentives that are exclusively available to foreign investors. However, there are situations where incentives can be provided. For example, the government may donate land for approved investment plans.

There are several tax incentives applicable to certain sectors of the economy, for example:

- Profits earned from the sale of agricultural products enjoy an exemption from profit tax until 2024.
- Under the Special Law on IT Start-ups, a beneficial tax regime has been granted for small IT start-ups with up to 30 employees.
- Under certain investment programmes approved by the government, it is possible to postpone VAT payments relating to the importation of machinery for three years from the date of importation.

Further details on incentives can be found on the website of the Ministry of Economy (<https://mineconomy.am>).

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## BUSINESS VEHICLES

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### 7. What are the most common forms of business vehicle used in your jurisdiction?

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The most common business vehicles are the:

- Limited Liability Company (LLC)
- Joint Stock Company (JSC).

The LLC has a simpler management structure. A JSC may be preferable if the company wishes to go public and be listed on a stock exchange at a later stage or if the company requires more sophisticated corporate governance. The law also establishes mechanisms for concluding a shareholder agreement between the shareholders of a JSC.

It is also possible to establish investment funds. There are many different forms of funds, and private equity funds can serve as a good alternative to a trust or other similar structures. The trust, as a concept, is not available under Armenian law.

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### 8. In relation to the most common form of corporate business vehicle used by foreign companies in your jurisdiction, what are the main registration and reporting requirements?

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#### Registration and formation

The State Register of Legal Entities of the Ministry of Justice is responsible for the registration of legal entities other than financial institutions. Financial institutions are registered by the Central Bank of Armenia.

The founder or director or other authorised person must submit the following for registration:

- Application for registration.
- The founder(s)' resolution on establishment of the legal entity.
- The legal entity's constitutional document (charter), as approved by the founders.
- Proof of the payment of the state fees, where applicable.
- Information about the director and copy of their passport.
- A statement on the ultimate beneficiaries of the legal entity.
- Where the legal entity is established by a foreign legal entity, verified, apostilled and translated documents proving the status of the foreign legal entity.
- Where the legal entity is established by a foreign individual, a verified copy of the individual's passport (with translation).

- Preferred trade name of the legal entity, and consents for use (if applicable).

The registration generally takes no more than two working days after the submission of the full package. If the founders decide to use a pre-approved standard form of documents, the registration is immediate (but the documents will be in Armenian only, and the founder and the director must be present at the registry office).

Trade name registration is made simultaneously with the registration of the entity. The suitability of a presented trade name is checked immediately and, if there are grounds to reject the registration, the founder can choose another name (no additional fee is paid).

For joint stock companies (JSCs), registration of shares at the central depository is compulsory in addition to state registration. The registration is made through an authorised account holder, which later serves as agent for other share transactions. The list of the authorised operators can be found online on the Central Depository of Armenia website (<https://cda.am>).

### Reporting requirements

Changes to a company's executive bodies, shareholders and charter (including registered address) must be reported to and registered at the state authority. Some companies may have additional reporting rules under the banking and capital market legislation.

### Share capital

There are no general mandatory maximums or minimums for a company's share capital. However, some mandatory minimums are imposed for companies in specific sectors, such as banks and insurance companies.

### Non-cash consideration

In general, the share capital of a business partnership or company can be paid in through:

- Money (cash).
- Commercial paper and securities.
- Other property or property rights.
- Other rights with a monetary value.

### Rights attaching to shares

**Restrictions on rights attaching to shares.** The holder of ordinary shares cannot be granted additional voting rights that are inconsistent with the nominal value and quantity of the ordinary shares they own. The company cannot guarantee the payment of dividends for ordinary shares. Preference shares do not grant voting rights unless this is provided for in the company statutes.

**Automatic rights attaching to shares.** Company shareholders have the right to:

- Participate in the management of the company (mainly by exercising their right to participate and vote at general meetings).
- Receive information on the activity of the company.
- Take part in the distribution of profits.
- Receive, in case of liquidation, property or value left after settlement with creditors.
- Alienate their shares.

In limited liability companies (LLCs) only, shareholders are entitled leave the company at any time, regardless of the other shareholders' consent. The LLC must purchase the shares of a shareholder who wants to withdraw from the company within six months of the submission of an application to withdraw. A JSC does not have a similar obligation.

In both LLCs and JSCs, the existing shareholders have a right of the first refusal if other shareholders decide to sell their shares.

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## 9. In relation to the most common form of corporate business vehicle used by foreign companies in your jurisdiction, outline the management structure and key liability issues.

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### Management structure

Limited liability companies (LLCs) and joint stock companies (JSCs) have almost the same management structure:

- The general meeting of shareholders is the highest body of the company.
- LLCs and JSCs can decide whether to form a board of directors, unless the board of directors is mandatory (such as in a JSC with 50 or more shareholders).
- The executive body in an LLC is composed of a director, or president, or an outsourced manager (usually a company). In a JSC, there is a chief executive officer with or without a collegial executive body (executive or management board) or outsourced executive management.
- Internal audit committees or auditors can be also appointed and are compulsory in some cases (if there are more than 20 shareholders).

### Management restrictions

There are no restrictions on foreign managers. In practice, many companies with foreign investment have foreign managers or directors.

There is also no requirement for the management to be physically present in Armenia. Banks can provide e-banking solutions, while communications and official correspondence can be undertaken by accounting or legal firms supporting the business.

### Directors' and officers' liability

Members of the executive body and board of directors are bound by fiduciary duties towards the company and can be held liable for damages caused to the company by their actions.

Directors and officers who control the actions of the company and have intentionally caused the company's bankruptcy can be held jointly and severally liable for the company's obligations towards its creditors that exceed the company's assets.

In a company bankruptcy, the managers can be held personally liable for company obligations that arise after the company was insolvent (where the obligations exceed the company's assets).

### Parent company liability

A parent company is not liable for the obligations of its subsidiary unless there are grounds for piercing the corporate veil on the basis of dominant control by the parent company over the subsidiary. In principle, a parent company that has the right to give obligatory instructions to a subsidiary company can be jointly and severally liable with the subsidiary company for transactions concluded by the latter in the performance of those instructions. However, this liability has never been imposed in practice.

## EMPLOYMENT

### Laws, contracts and permits

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## 10. What are the main laws regulating employment relationships?

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The main laws regulating labour relationships are the:

- **Labour Code.** This is the main legal act applicable to employment relations. It:
  - regulates collective and individual labour relations;
  - defines the grounds for the creation, implementation, modification and termination of labour relations;
  - defines the rights and obligations of the parties to labour relations;
  - provides for employers' liability, as well as conditions for ensuring the safety and health of employees.
- **Civil Code.** General civil legislation and other legal acts apply to labour relations, unless otherwise provided for by labour legislation.
- **Sector-specific laws governmental decrees and other legal acts.** There are specific requirements for some types of labour relationships (for example in the public sector every special field is regulated by a specific law). Ministerial decisions, decrees, regulations and so on sometimes regulate specific employment issues, such as:
  - special groups of employees who must pass mandatory medical examinations;
  - mandatory employee protections in some sectors, such as protection from noise, radiation and so on.

Armenia has also ratified several international bilateral and multilateral treaties and conventions, and is in active and continuous co-operation with international and regional organisations in the area of labour rights protection. Under the Armenian Constitution, in case of conflict between such international conventions and internal Armenian legislation, the former prevail. The Revised European Social Charter and the Constitution of the World Health Organisation are the main international documents.

Foreign nationals and stateless persons require a work permit to work in Armenia but otherwise generally have the same labour rights in Armenia as citizens.

Armenian legal acts regulating labour relations apply to Armenian citizens working abroad for an Armenian employer, regardless of whether the work is performed in Armenia or on assignment in another state.

Labour law regulations do not contain any conflict of law provisions, and the general principle of choice of law is not applicable to the labour relationship. Therefore, foreign law only applies to labour relations in Armenia if this is specifically provided for by Armenian law or by the international treaties Armenia has entered into (*Article 8, Labour Code*).

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## 11. Is a written contract of employment required? If so, what main terms must be included in it? Do any implied terms and/or collective agreements apply to the employment relationship?

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Under the Labour Code, employment relations between an employee and an employer arise when there is either an:

- Employment contract concluded in writing in the manner prescribed by the labour legislation.
- Act of acceptance of employment with the consent of the parties.

(*Article 14, Labour Code*.)

All employers must sign an employment contract with every new employee and for every relevant order for employment (*Article 412, point 1, Tax Code*). Otherwise, sanctions can apply to the employer.

The employment contract must (*Article 84, Labour Code*):

- Contain all the terms necessary for the employment contract.
- Be concluded in writing.
- Contain the following mandatory information:
  - the year, month, date and place of the acceptance and conclusion of the employment contract;
  - address of contract conclusion;
  - the first and family name of the employee (and at their discretion also their patronymic name);
  - the name of the employer organisation, or the first and family name (and at their discretion also the patronymic name) of a natural person employer;
  - the relevant structural subdivision of the employer (if any);
  - the year, month and date of the commencement of work;
  - the title of the position and/or job-related functions;
  - the amount of basic salary and/or the method for determining it;
  - any supplements, additional payments, premiums, and so on granted to employees;
  - the validity period of the employment contract or individual order (if applicable);
  - the duration and terms of any probation period;
  - the working time regime (either the normal duration of working time or part-time/shorter working hours, or record of cumulative hours worked);
  - the type and duration of annual leave (minimum, extended and additional); and
  - the position, name and family name of the person signing the contract.

A collective labour agreement may be applicable, but signing one is not mandatory. If the parties decide to sign the collective agreement, it may provide more favourable conditions for employees than those defined by the Labour Code. The terms of any contract or agreement that are less favourable to employees than the Labour Code regulations have no legal effect.

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## 12. Do foreign employees require work permits and/or residency permits?

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Foreign employees require work permits and/or residency permits. Armenian employers can only conclude an employment contract with a foreign worker based on a work permit issued to the foreign worker by the relevant authorised body (*Article 22 (2), Law on Foreigners*). However, the work permit requirement is waived for managers of companies with foreign investment.

A foreign national must have a residence permit to legally stay in Armenia for more than 180 days per year. However, staying in Armenia is not a compulsory condition for working in Armenia, as, for example, the work can be done at a distance. Under the Law on Foreigners, there are three types of residence permits, each of which has its own conditions:

- **Temporary residency permit.** This is issued within 30 days of submission of all required documents. The fee is AMD105,000.
- **Permanent residency permit.** This is issued within 30 days of submission of all required documents. The fee is AMD140,000.

- **Special residency permit.** No single time limit is determined for the process. Every phase has its own terms, and they vary depending on whether the permit is requested in Armenia or abroad through Armenian embassies or consulates. The whole process can last up to three months. The fee is AMD150,000. They do not grant no additional employment rights, as both permanent residency and special residency permits allow a person to be engaged in employment relations without a work permit. However, there may be different consequences in other fields of legislation. Special residence permits are granted to Armenian foreigners and may also be granted to other foreigners engaged in economic or cultural activities in Armenia (*Article 18 (1), Law on Foreigners*).

## Termination and redundancy

### 13. Are employees entitled to management representation and/or to be consulted in relation to corporate transactions (such as redundancies and disposals)?

The Labour Code regulates employees' rights to represent themselves and to protect their interests. Employers and employees can freely and voluntarily establish and join trade unions and employers' associations in the manner established by the law. Employees can be represented by trade unions, employee representatives and representative bodies elected by staff meetings/assemblies.

Employees can sue employers for alleged violations of their employment rights. This process is free of state fees for employees. Another dispute resolution process is to come into force from June 2021. The state body responsible for the supervision of the labour relations will be authorised to solve labour disputes and apply sanctions.

Article 23 (1) of the Labour Code sets out the rights of employee representatives. Employee representatives may also be granted additional powers under a relevant collective agreement, to the extent this does not contradict the legislation (*Article 23 (3), Labour Code*).

### 14. How is the termination of individual employment contracts regulated?

An individual employment contract may be terminated:

- By agreement between the parties. If there is mutual agreement to terminate the employment contract there are no further legal consequences except for the final settlement process. This does not prevent any party applying to a dispute resolution body. The chances of success is low, and there are few cases in practice, and would more probably relate to the non- or mis-fulfillment of obligations prescribed by the agreement.
- At the employee's initiative. The employee can initiate the termination of the employment contract by giving the employer at least one month's notice, unless a longer period is prescribed in the employment contract or relevant collective agreement. The one-month period can be reduced if the employer has no objection.
- At the employer's initiative. A dismissal may be qualified or fail unless it is justified under one of the grounds set out in the Labour Code as follows:
  - the organisation is liquidated (the activity of the private entrepreneur is terminated, and the organisation's registration ceases to be in force or is invalidated);

- production volumes, economic, technological or work conditions are changed or conditioned by production necessity requiring a reduction in employees or production;
- the employee is unsuitable for the position held or work performed;
- the employee is reinstated in a previous job;
- the employee regularly fails to perform their work duties prescribed by the employment contract or by internal disciplinary rules, with no good reason;
- the employer's confidence in the employee has been lost;
- the employee is subject to disability/incapacity meaning the employee does not report for work for more than 120 consecutive days or for more than 140 days during the last 12 months (except where the law allows for retention of the workplace or position for a longer term, such as in the case of certain diseases);
- the employee is found at workplace under the influence of alcohol or narcotic or psychotropic substances;
- the employee's absence from work for an entire working day (shift) for no good reason;
- the employee refuses or evades a compulsory medical examination/check-up;
- the employee is eligible for old age pension and has turned 63 years' of age, or is not eligible for old age pension and has turned 65 years' of age, unless otherwise prescribed by the employment contract.

Notification and other procedural requirements vary depending on the ground of dismissal. For instance, if the employment contract is terminated for the reasons above relating to the employee's breach, the employer can terminate the contract without notification and no severance fees are due. However, if the employment contract is terminated for redundancy reasons, a notification must be sent at least two months before termination.

In general, if the termination on the employer's initiative is in violation of the employer's employment obligations in regard to the employment relations termination process, a notification must be sent at least 14 to 60 days in advance, depending on the working experience of the employee at the workplace. If the notification requirement applies, the penalty for failing to notify is equal to the employee's salary and bonuses for the remaining time of the notification.

In addition, different amounts of severance fees must be paid for terminations for reasons of redundancy, unsuitability, reassignment, incapacity or old age respectively. No matter how many days the penalty is paid for, the penalty to be paid for each overdue notice period is calculated based on the employee's average daily wage.

The employer must make a final settlement with the terminated employee on the day of termination, unless another period is prescribed in the employment contract.

An employee whose rights are violated can apply for:

- Dispute resolution through a judicial procedure under the Civil Procedures Code.
- In case of collective labour disputes, committee mediation under the procedure set out in Chapter 11 of the Labour Code.
- Dispute resolution through an arbitration tribunal in accordance with the Civil Procedures Code and the Law on Commercial Arbitration. Labour disputes that can be resolved through a judicial procedure can be referred to an arbitration tribunal instead, provided that there is an arbitration agreement between the parties. An arbitration agreement does not restrict

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the employee's right to apply to the court, unless the arbitration agreement is concluded after the dispute has arisen, and the parties irrevocably agreed to submit the dispute to the arbitration tribunal.

If the proceedings confirm material or procedural violations, the employer must pay the employee's prior average daily salary for the whole period of forced non-working, or the difference in salary if the employee received reduced remuneration. If the court cannot reinstate the employee for economic, technological or organisational reasons, the employer must also pay compensation for non-reinstatement of between one and 12 months' average salary of the employee. The amount is decided for each case individually. The compensation for non-reinstatement is calculated by multiplying the monthly average salary with the number of months decided by the court.

The employment contract is deemed to be rescinded from the day of entry into legal force of the court judgment (*Labour Code*).

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### 15. Are redundancies and mass layoffs regulated?

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Under Article 116 of the Labour Code, in case of liquidation of an organisation or reduction in the number of employees, if the dismissal during two months more than 10% of the total number of employees or more than ten employees (a collective redundancy) is anticipated, the employer must submit data on the number of the dismissed employees (disaggregated by profession, gender and age) to the relevant state governing body and to the employees' representative not later than two months before the termination of the employment contracts.

## TAX

### Taxes on employment

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### 16. In what circumstances is an employee taxed in your jurisdiction and what criteria are used?

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Tax issues relating to taxation of labour compensation and other equivalent payments are regulated by the Tax Code. The tax base for an employee consists of labour compensation and other equivalent payments received by the employee. The concept of tax residence is recognised. A resident is considered to be a natural person who either:

- Has resided in Armenia for a total of 183 or more days during the course of the tax year at any stage of the 12-month period that starts and ends during the fiscal year (from 1 January through to 31 December).
- Is an Armenian state servant working temporarily outside of Armenia.
- Has their centre of vital interests located in Armenia.

The location where the family or economic interests of the individual are concentrated is deemed to be their centre of vital interests. A centre of vital interests of an individual is generally where:

- They have a house or apartment.
- Their family reside and their main personal or family property is maintained.
- Their core economic (professional) activity is based.

All other persons are recognised as non-resident.

A resident is taxable on all relevant income received both within and outside Armenia.

A non-resident is taxable on income received from Armenian sources only.

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### 17. What income tax and social security contributions must be paid by the employee and the employer during the employment relationship?

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In general, the employer acts as a tax agent and calculates and transfers income tax to the state budget for both resident and non-resident employees. The employee is the taxpayer and not the employer, which has responsibility as tax agent only. Tax residents and non-residents pay income tax for their employment remuneration and other equivalent payments at the same rate. Resident and non-resident employees also pay mandatory social contribution payments based on the amount of salary.

#### Tax resident employees

The income tax rates for employees are as follows (*Tax Code*):

- 23% from 1 January 2020.
- 22% from 1 January 2021.
- 21% from 1 January 2022.
- 20% from 1 January 2023.

The following rates are set for mandatory social payments (*Law on Funded Pensions*):

- 5% on salary up to AMD500,000.
- 10% and AMD25.00 on salary above AMD500,000.

Every month, tax agents calculate the income tax due. By the 20th day of the next month, tax agents must electronically submit to the tax office a summary income tax return and pay the amount of income tax to the state budget. There are some exceptions. For example, organisations implementing projects under treaties signed and ratified on behalf of the Armenian state are exempt from withholding income tax on incomes paid to individuals at source. In these cases, these organisations can choose to act as tax agents on the basis of a declaration filed with the tax office, or otherwise individuals can choose to pay and submit tax returns themselves under the same terms and conditions.

The same filing requirements are set for mandatory social payments.

#### Non-tax resident employees

See above, *Tax resident employees*.

#### Employers

Employers do not pay taxes but act as tax agents (*see above, Tax resident employees*).

#### Business vehicles

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### 18. When is a business vehicle subject to tax in your jurisdiction?

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#### Tax resident business

Under the Tax Code, all companies who are registered in Armenia or whose place of residence is Armenia are deemed to be residents. All other companies are deemed to be non-residents.

#### Non-tax resident business

Non-tax resident businesses can operate in Armenia with or without establishing a permanent establishment (a branch is included in the notion of the permanent establishment). In both cases, the object of taxation is the taxable profit received from Armenian sources. Non-tax residents who operate in Armenia through a permanent establishment must pay and submit tax returns, and can deduct losses attributable to income derived from Armenian sources.

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Income received from Armenian sources by non-tax residents is taxable at source, and the Armenian source entities must withhold and pay VAT and profit taxes on behalf of the non-tax residents.

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## 19. What are the main taxes that potentially apply to a business vehicle subject to tax in your jurisdiction (including tax rates)?

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Under the Tax Code, taxpayer companies can choose between two taxation regimes:

- Profit tax plus VAT.
- Turnover tax instead of VAT and profit tax. This regime is not available to:
  - non-residents;
  - taxpayers who work under special taxation systems, such as in relation to presumptive payments and patent fees; and
  - taxpayers who pay excise tax.

### Profit tax

For residents, the object of taxation is the taxable profit received within and outside Armenia. For non-residents, the object of taxation is the taxable profit received from Armenian sources only. Taxable profit is gross income less expenses, and is taxed at:

- 18% for residents and non-residents engaging in economic activity through permanent establishment (including a branch).
- 20% for non-residents engaging in economic activity without a permanent establishment.

If a non-resident engages in economic activity without a permanent establishment, taxation of the income derived by the non-resident in Armenia from Armenian sources must be performed by a tax agent at the income source. Armenian residents must submit tax returns on the calculation and payment of income to non-residents before the 20th day of the first month following the quarterly reporting period.

Under the Tax Code, residents and non-residents who engage in economic activity through a permanent establishment must submit tax returns and pay profit tax before the 20th April following the yearly reporting period.

### VAT

VAT is an indirect tax imposed on transactions. The VAT rate is 20%. If a foreign entity conducts VAT-taxable entrepreneurial activities in Armenia (including importing goods) but is not registered as an entity conducting entrepreneurial activities in Armenia, Armenian VAT payers that are parties to contractual relations with the foreign entity must act as tax agents. Tax returns must be submitted before the 20th day of the first month following the reporting period (quarterly or monthly).

### Turnover tax

Turnover tax applies to the marketing turnover and other income received from supplied products and rendered services. Income received from trade activities or from rendering services is taxed at 5%. Non-resident companies cannot be regarded as a turnover taxpayer. Reporting periods for calculation and payment of turnover tax are quarterly. The submission of the tax return and payment of turnover tax must be made before the 20th day of the following first month of the reporting period.

### Dividends, interest and IP royalties

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## 20. How are the following taxed:

- **Dividends paid to foreign corporate shareholders?**

- **Dividends received from foreign companies?**
  - **Interest paid to foreign corporate shareholders?**
  - **Intellectual property (IP) royalties paid to foreign corporate shareholders?**
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### Dividends paid

Dividends paid to foreign corporate shareholders are taxed at 5%.

### Dividends received

Dividends received from foreign companies are added to the tax base of a profit tax taxpayer company.

Dividends received by natural persons are taxable at 5%.

### Interest paid

Interest paid to foreign corporate shareholders is taxed at 10%.

### IP royalties paid

Royalties paid to foreign corporate shareholders are taxed at 10%.

### Groups, affiliates and related parties

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## 21. Are there any thin capitalisation rules (restrictions on loans from foreign affiliates)?

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The thin capitalisation rules set maximum amounts above which the deduction of paid interest is not allowed. It is not possible to deduct paid interest for the use of loans or credits above an amount exceeding twice the bank interest rate established by the Central Bank of Armenia (currently 12%, so an amount exceeding 24% is not deductible).

Interest paid on loans from financial organisations is not deductible if it exceeds twice the debtor company's equity capital. For a loan from a non-financial organisation, interest is not deductible if it exceeds nine times the equity capital. Interest paid on loans from financial organisations is not deductible if it is less than would be the case if the loan was made on arm's length terms.

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## 22. Must the profits of a foreign subsidiary be imputed to a parent company that is tax resident in your jurisdiction (controlled foreign company rules)?

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There are no controlled foreign company rules under domestic law.

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## 23. Are there any transfer pricing rules?

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Under the Tax Code, transfer pricing rules are applicable for taxpayers who pay VAT, profit tax and/or royalties for the use of natural resources. Transactions between interconnected persons of these taxpayers are regarded as supervised transactions. If the amount of all supervised transactions of the taxpayer exceeds AMD200 million for the current year, transfer pricing rules can apply. In principle, for tax purposes, a transfer price must match either:

- What the seller would charge an independent, arm's length customer.
- What the buyer would pay an independent, arm's length supplier.

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## Customs duties

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### 24. How are imports and exports taxed?

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VAT, and in certain cases excise tax, is applicable to the imports of goods. The VAT rate is 20%. A zero VAT rate is applicable to the export of goods or the rendering of services outside Armenia. VAT is applied based on the customs value of the imported goods. The purchase price is the main option for deciding the customs value but there can be some problems with this in practice. Customs authorities have a list of fixed prices and even if the documents necessary for clearance are in place, they may require additional documents or state with reasons that the submitted documents are not sufficient. For the reporting obligations, see *Question 19, VAT*.

There are some additional procedural requirements for imports and exports from the countries of the Eurasian Union. For example, to apply for zero-rate VAT for exports made from Armenia to the territory of another Union member, relevant information on import of goods and payment of VAT in that other Union member state must be provided.

## Double tax treaties

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### 25. Is there a wide network of double tax treaties?

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There is a wide network of international treaties for the avoidance of double taxation and the prevention of tax evasion concluded with 46 countries, including Germany, Ireland, the UK, Russia, Cyprus and Malta. Negotiations on the conclusion of a double-taxation elimination treaty with the US are currently ongoing. The final list is available on the Armenian State Revenue Committee website ([www.petekamutner.am](http://www.petekamutner.am)).

Armenia joined the OECD Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting in 2017.

## COMPETITION

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### 26. Are restrictive agreements and practices regulated by competition law? Is unilateral (or single-firm) conduct regulated by competition law?

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#### Restrictive agreements and practices

The Law on the Protection of Economic Competition prohibits restrictive agreements and practices. The Law defines restrictive agreements and practices as those that indirectly result or might result in the restriction, prevention or prohibition of competition, including:

- Contracts and agreements between economic entities.
- Direct or indirect joint actions or behaviours.
- Concerted practices.
- Decisions made by unions of economic entities.

Restrictive agreements and practices can include, among other things:

- The distribution or division of markets or supply sources.
- Setting unfair prices.
- Restricting other economic entities from entering the market.

The Law on the Protection of Economic Competition sets substantial fines for the implementation of restrictive agreements and practices. An economic entity can be fined up to 10% of the income received

during the preceding year. The Criminal Code of Armenia also sets out criminal liability for setting unfair monopoly prices and for agreements and practices that restrict competition.

The regulations are applicable to foreign companies that operate in the Armenian market (such as by establishing an Armenia-resident company, using a permanent establishment in Armenia or by other means). If an Armenian-resident economic entity owned by a foreign company is engaged in restrictive agreements, the legal consequences may also be applicable to the foreign company, as these two entities may be regarded as a single "group of persons".

#### Unilateral conduct

The Law on the Protection of Economic Competition prohibits the abuse of a dominant or monopoly position, including:

- Charging unreasonably high or low prices.
- Obstructing competitors in the market.
- Refusing to deal with certain customers or offering special discounts to customers who buy all or most of their supplies from the dominant company.

The Law on the Protection of Economic Competition sets substantial fines for the abuse of a dominant position. An economic entity can be fined up to 10% of its income received during the previous year.

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### 27. Are mergers and acquisitions subject to merger control?

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Mergers and acquisitions are subject to merger control if they qualify as notifiable concentrations. Notifiable concentrations must obtain consent from the State Commission of Protection of Economic Competition (SCPEC). Under the Law on the Protection of Economic Competition, concentrations include the:

- Consolidation and merger of business entities.
- Acquisition of assets of an economic entity by another economic entity, if the value of those assets together with the assets already owned by that economic entity equal 20% or more of the total assets of the first economic entity.
- Acquisition of shares of an economic entity by another business entity, if the amount of those shares together with the shares already owned by that economic entity equal 20% or more of the total shares of the first economic entity.
- Unification of economic entities enabling one economic entity to directly or indirectly influence the decisions or competitiveness of another economic entity.

A concentration is notifiable (before being executed) if either:

- During the last financial year preceding the concentration, the total value of the assets or revenues of the parties to the concentration exceeded one of the following limits:
  - in a horizontal concentration: the overall value of the assets of all the participants of the concentration exceeded AMD1.5 billion, or the value of assets of at least one of the participants exceeded AMD1 billion;
  - in a horizontal concentration: the overall income of all the participants of the concentration exceeded AMD3 billion, or the income of at least one of the participants exceeded AMD2 billion;
  - in a vertical or mixed concentration: the overall value of the assets of all the participants of the concentration exceeded AMD3 billion, or the value of assets of at least one of the participants exceeded AMD2 billion;
  - in a vertical or mixed concentration: the overall income of all the participants of the concentration exceeded AMD4 billion,



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or the income of at least one of the participants exceeded AMD3 billion.

- At least one of the parties to the concentration has a dominant position in any goods market. Notifiable concentrations may be between business entities operating in:
  - the same goods market (horizontal concentration);
  - different goods markets having certain interrelation (vertical concentration);
  - different goods markets (mixed concentration).

Whether foreign-to-foreign mergers and acquisitions are defined as a concentration (and therefore whether there is an obligation to submit a declaration) depends on whether they are operating in the Armenian market. The regulations are applicable if foreign companies operate in the Armenian market (such as by establishing an Armenia-resident company, using a permanent establishment in Armenia or by other means). There is no distinction between resident and non-resident companies when defining the notion of economic entity, so the main test for deciding whether the concentration must be notified is whether the foreign entity operates in the Armenian market.

## INTELLECTUAL PROPERTY

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### 28. Outline the main IP rights in your jurisdiction.

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#### Patents

**Definition and legal requirements.** Patents can be granted for technical solutions in any domain that concerns a product, use or method. There are three conditions for the patentability of the invention:

- Novelty.
- Inventive value.
- Industrial usefulness.

**Registration.** Patents are registered by the Intellectual Property Agency of Armenia. The Agency website has guidance on the procedure and necessary form samples ([www.aipa.am](http://www.aipa.am)).

**Enforcement and remedies.** If the object of the protection is a product, the right holder has an exclusive right to prohibit any third party from manufacturing, using, introducing to market, offering for sale, or importing or obtaining the product for any of those purposes. Similar prohibitions can be imposed if the object is a method. The infringement of a patent can result in civil and criminal liability.

**Length of protection.** Patents are protected for 20 years from the application.

#### Trade marks

**Definition and legal requirements.** A trade mark is a mark that is used to distinguish the products and/or services of one person from the products and/or services of another. There are very detailed regulations on the circumstances where the registration can or must be rejected, such as the mark being:

- Non-distinctive.
- Descriptive or generic.
- Representative only of the form of the product itself.
- Against public order or morals.

**Protection.** Trade marks are registered by the Intellectual Property Agency of Armenia. The Agency website has guidance on the procedure and necessary form samples ([www.aipa.am](http://www.aipa.am)). For unregistered trade marks, the only protection available is refusal by the Agency to register any mark that is confusingly similar to the

unregistered trade mark being used in Armenia or outside of its territory, where the applicant is not acting in good faith.

**Enforcement and remedies.** The right holder of a registered trade mark has a right to prohibit:

- Any use of a mark that is identical to their trade mark for the same products and/or services.
- Any use of an identical or similar mark for identical or similar products and/or services, if there is a possibility of confusion for the public.
- Any use of an identical or similar mark for different products and/or services, if the trade mark is well-known in Armenia and the use of the mark would unfairly benefit the infringing party.

**Length of protection and renewability.** The length of protection is ten years from the application and can be renewed indefinitely for ten years at a time.

#### Registered designs

**Definition.** A registrable design is a solution in connection with the appearance of the object that is new and unique.

**Registration.** Designs are registered by the Intellectual Property Agency of Armenia. The Agency website has guidance on the procedure and necessary form samples ([www.aipa.am](http://www.aipa.am)).

**Enforcement and remedies.** A right holder has a right to prohibit any use of the design without their permission. Infringement can result in civil liability.

**Length of protection and renewability.** The length of protection is five years from the application. It can be renewed further for five years at a time but for no more than 25 years in total.

#### Unregistered designs

**Definition and legal requirements.** An unregistered design is a design that is protected by the law even though it is not registered.

**Enforcement and remedies.** No specific remedies are explicitly prescribed by law for unregistered designs. However, there is general protection under unfair competition or other general concepts.

**Length of protection.** Under the Law on Copyright and Related Rights, the length of protection is three years from when the design was made public in Armenia.

#### Copyright

**Definition and legal requirements.** Copyright protects unique results of creative work that are both:

- Executed by the author alone or together with other authors in the fields of literature, science and art.
- Expressed in oral, written or other objective form, regardless of the form of creation, its value or the purpose of its creation.

**Protection.** Copyright does not require registration.

**Enforcement and remedies.** The author has the exclusive right to use their creation as they wish and to prohibit or authorise its use by a third party. The infringement of copyright can result in civil and criminal liability.

**Length of protection and renewability.** The tangible rights of the author are protected during their lifetime and for 70 years after their death. The intangible (personal) rights do not have any time limit for protection.

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## MARKETING AGREEMENTS

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### 29. Are marketing agreements regulated?

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#### Agency

Under an agency agreement, the agent undertakes an obligation to conduct legal or other actions in accordance with instructions given by the principal in return for remuneration, either on their own behalf but at the principal's expense or on behalf of the principal and at the principal's expense. There is no restriction on the nationality of the parties. The agency agreement can be exclusive or non-exclusive. It must have a written form. There is no obligation for registration.

#### Distribution

The Civil Code of Armenia does not specifically regulate distribution agreements.

#### Franchising

Under a franchising agreement, a right holder allows its exclusive rights to be used by another party in its commercial activities. The parties must be commercial organisations or sole proprietors. There is no restriction on their nationality. The contract must be in written form and be registered by the right holder. If the right holder is registered in a foreign state, the contract must be registered by the user. If the agreement concerns the use of an object protected by patent or trade mark, the permission for use must be registered by the authority that registers patents and trade marks in the relevant jurisdiction (this is the Intellectual Property Agency of Armenia in Armenia). Franchising agreements can be exclusive or non-exclusive.

## E-COMMERCE

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### 30. Are there any laws regulating e-commerce (such as electronic signatures and distance selling)?

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The Civil Code regulates services provided through electronic platforms, and the grounds for liability for the providers of such services and other related issues. After recent simplifications of the licensing regulations, trading and/or service provision through an electronic platform is not subject to licensing, but entrepreneurs who wish to operate such a platform must still notify the relevant competent state body under the Law on Notification of Exercise of Activity. This notification is a simplified procedure with the sole purpose of creating a public electronic registry containing information on market actors who engage in certain activities (including trade by electronic means). Entities and individuals entitled to engage in activities subject to notification can commence their activities within five working days of submission of the notification, unless the right to engage in the activities is denied. The competent authority can only deny this right if the formal notice requirements were not complied with (such as a failure to submit all the required documents or the entity not being entitled to carry on the activity under its constitutional documents).

A state fee must also be paid. Under the Law on Notification of Exercise of Activity and Law on Trade and Services, trade through electronic means is also considered as an "organising trade". The Law on State Duties establishes AMD1 million per year as a state duty for this activity.

Under the Law on Electronic documents and Electronic Digital Signature, electronic documents have the same status and legal protection as paper documents and can be signed using a digital signature.

## ADVERTISING

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### 31. Outline the regulation of advertising in your jurisdiction.

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The Law on Advertising sets requirements on the content of advertisements and their circulation. There are restrictions in relation to, among other things, the advertising of:

- Alcohol, tobacco and drugs.
- Weapons.
- Gambling and casinos.
- Medicines, medical services and pharmaceutical activities.

Advertisements must be either in Armenian, or accompanied by Armenian translation, except for trade marks and registered brands.

In 2019, the Law on Advertising was amended by lottery regulations, according to which TV lottery broadcasts are only allowed between 10PM and 7AM.

## DATA PROTECTION

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### 32. Are there specific statutory data protection laws? If not, are there laws providing equivalent protection?

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Regulation (EU) 679/2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation (GDPR)) is not applicable in Armenia. However, Armenian data protection legislation reflects most of GDPR's main principles and rules.

Armenia has ratified the Convention for the Protection of Human Rights and Fundamental Freedoms 1950 (European Convention on Human Rights). Therefore, Article 8 of the European Convention on Human Rights applies to personal data protection in Armenia.

The Constitution of Armenia protects the right to protection of personal data. General rules concerning the processing of personal data are set out in the Armenian Law on Protection of Personal Data (Data Protection Law), which was adopted in 2015. There are also several sectoral-specific data protection laws, and the Data Protection Law does not apply to the following, which are subject to their own separate regimes:

- State and official secrets.
- Banking, notarial, and insurance secrecy.
- Legal professional privilege.
- Personal data use during operations concerning national security or defence.
- Personal data use in preventing and detecting money laundering, terrorism financing, and operational intelligence activities and proceedings.

These laws include the:

- Law on Banking Secrecy, which aims to protect data collected by banks.
- Law on Insurance and Insurance Activity, which protects data transferred to insurance companies and intermediaries.
- Law on Combating Money Laundering and Terrorism Financing, which regulates data protection issues in connection with money laundering and terrorism financing prevention.
- Law on Circulation of Credit Information and Activities of Credit Bureaus, which defines special rules for the collection, processing, registration, maintenance and use of credit information in Armenia.

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- Labour Code, which protects employees' personal data.
  - Law on Electronic Communications, which protects electronic communications service providers' clients' data.

The Code on Administrative Offences imposes administrative liability for violating the general rules on personal data protection and processing, and defines the relevant administrative offences. The Criminal Code imposes criminal liability for violating the general rules on personal data protection and processing, and defines the relevant criminal offences.

## **PRODUCT LIABILITY**

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### **33. How is product liability and product safety regulated?**

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The Law on Protection of Rights of Consumers grants consumers the right to safe products and services. A consumer has a right to full compensation for damages, regardless of whether the consumer was in direct contractual relations with the seller or service provider. The consumer can demand reparation of damages caused by product defects from the seller or the manufacturer. Damages caused by defects in works and services must be compensated by the seller or provider.

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**Areas of practice.** Property and real estate law; administrative law; labour law; inheritance law. Specialised in rights defence in the sphere of economic crimes.

#### Recent activity

- Providing legal advice on questions related to corporate, tax, labour and competence rights.
- Providing high-quality representation related to the interests of clients in different courts and administrative bodies.
- Presented the interests of trustees in the Public Services Regulatory Commission of the Republic of Armenia, State Commission for Protection of Economic Competition of the Republic of Armenia and State Revenue Committee of the Republic of Armenia.

**Languages.** Armenian, Russian, English

#### Publications

- *Armenia: Construction, The Legal 500, Country Comparative Guide, 2020.*
- *The Employment Law Review 2020, 11th Edition.*
- *Corporate Migration, Armenia, International Comparative Legal Guide, 2019.*
- *Employment and Labour Law, The Legal 500 & In-House Lawyer Comparative Legal Guide, 3rd Edition.*
- *Doing Business in Armenia, Country Q&A, Practical Law, Thomson Reuters.*
- *Employment and Labour Law, ICLG, 2017.*
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**Areas of practice.** Litigation and arbitration; competition.

#### Recent activity

- From 2011 to 2014 held the position of the Deputy Minister of Justice of the Republic of Armenia (responsible for reforms to the State Register Agency of Legal Entities, Civil Status Acts Registry Office, notary system, advocacy, civil procedural and civil legislation).
- Lectures at the School of Advocates of Armenia, at the French University in Armenia and at the Justice Academy of Armenia.

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#### Publications

- *Enforcement of Foreign Judgments, Lexology, Getting the Deal Through, 2020.*
- *International Arbitration, Armenia, ICLG, 2019.*
- *Mining in Armenia: overview, Global Guide, Practical Law, Thomson Reuters, 2019.*
- *Global Practice on Guide Corporate M&A Armenia, Chambers and Partners, 2019.*
- *Doing Business in Armenia, Country Q&A, Practical Law, Thomson Reuters.*
- *Mining in Armenia, Country Q&A, Practical Law, Thomson Reuters.*
- *Telecoms, Media & Internet Laws and Regulations, ICLG, 2018.*
- *Mining Law, ICLG, 2018.*
- *The Recent Changes to the Regulation of on-line Gambling in Armenia, Data Guidance, Online Gambling Lawyer.*
- *Litigation and Dispute Resolution, Global Legal Insights, 6th Edition.*
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**Areas of practice.** Privacy and data protection; corporate law; M&A.

### Recent activity

- Managed equity participation transactions in Armenian companies, including the implementation of legal audit prior to those transactions.
- Responsible for banking and financial consulting services (one of the current projects is advising shareholders on the acquisition of shares of one of the Armenian banks).

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### Publications

- *Law and Practice, Chambers and Partners, Global Practice Guides.*
- *Personal data protection in Armenia, Thomson Reuters.*
- *Doing Business in Armenia, Global Guide, Practical Law, Thomson Reuters.*
- *Hedge funds in Armenia, Thomson Reuters.*
- *Corporate M&A, Thomson Reuters.*
- *Anti-Corruption Regulation 2019, Questionnaire, Getting the Deal Through.*
- *Retail investment funds in Armenia: a regulatory overview, Thomson Reuters.*
- *Data protection in the financial sector in Data Guidance.*
- *Corporate Governance, The Legal 500, Country Comparative Guide, 2020.*
- *Enforcement of Foreign Judgments 2020, Lexology, Getting the Deal Through.*
- *Data protection in Armenia 2019, Practical Law, Thomson Reuters.*
- *Family Law 2020, International Comparative Legal Guide.*
- *Corporate Governance, The Legal 500, Country Comparative Guide, 2020.*

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### Recent activity

- From 2016 to 2019, First Deputy Minister of Justice of the Republic of Armenia (responsible for ensuring the drafting and improvement of the legislation of the Republic of Armenia including the normative acts based on the Constitutional reforms, legal expertise and state registration of legal acts, official translation, publication and re-publication of legal acts, and developing policy in the fields of notarisation, advocacy, compulsory enforcement of judicial acts, mediation and bankruptcy).
- From 2013 to 2016, First Deputy Chairman of The Chamber of Advocates of the Republic of Armenia responsible for legal drafting of the Acts and Decisions of the Chairman and the Council of Advocates, drafting legal opinions on the draft legal acts submitted to the Chamber of Advocates by state bodies, and co-ordination with the Public Defender's Office.
- From 2011 to 2013, Head of Department for Legal Support of the Ministry of Justice of the Republic of Armenia.
- From 2010 to 2011, Head of Department for Euro-integration of the Ministry of Justice of the Republic of Armenia.
- From 2007 to 2010, Head of Department for Judicial Reforms of the Ministry of Justice of the Republic of Armenia.
- From 2006 to 2007, Head of Division for Criminal Executive Reforms of the Department for Judicial Reforms of the Ministry of Justice of the Republic of Armenia.
- From 2003 to 2006, worked at the Ministry of Justice of the Republic of Armenia as a Senior Specialist of the Division for Legal Reforms of the Department for Judicial Reforms.
- From 2002 to 2003, worked at the Ministry of Justice of the Republic of Armenia as a Senior Advisor of the Department for Structural Reforms.

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- *Mining in Armenia: overview, Global Guide, Practical Law, Thomson Reuters, 2019.*
- *Alternative Energy and Power 2019, Chambers and Partners, Law and Practice.*
- *Corporate M&A, Global Guide, Practical Law, Thomson Reuters, 2019.*
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**Languages.** Armenian, Russian, French, English, Spanish

**Publications.** *Construction 2020, Armenia, The Legal 500, The Country Comparative Guides.*