

PANORAMIC

**ADMINISTRATIVE &
PUBLIC LAW**

Armenia



LEXOLOGY

Administrative & Public Law

Contributing Editor

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CONSTITUTION

Sources of constitutional law

What are the basic sources of law in your jurisdiction and what is the hierarchy of these sources?

The basic sources of law in the Republic of Armenia (RA) are: the Constitution of the Republic of Armenia, constitutional laws (there are seven, as per article 103, paragraph 2 of the Constitution), 'ordinary' laws (referring to laws that do not fall under the category of constitutional laws), international contracts and subordinate legal acts (such as governmental decisions and orders). The hierarchy of these sources is as follows:

- The Constitution holds the highest legal authority.
- Constitutional laws follow and must comply with the Constitution.
- Ordinary laws must comply with both the Constitution and constitutional laws.
- Subordinate legal acts must comply with all the aforementioned sources.
- International contracts are positioned below the Constitution in the hierarchy but take precedence over ordinary laws in the event of a conflict.

Law stated - 13 September 2024

Creation, establishment and amendment

How are the sources of constitutional law created or established and amended?

The Constitution was adopted in 1995 through a public referendum. It was subsequently amended in 2005 and 2015, again through referendums. According to the 2015 revised Constitution, certain articles or chapters in the Constitution can also be amended by a two-thirds majority in Parliament.

Law stated - 13 September 2024

Case law

Have there been any recent significant judicial decisions regarding the constitution?

On 16 April 2024, in decision SDO-1725, the Constitutional Court of Armenia ruled that article 195 of the Administrative Procedure Code, which did not provide an opportunity for direct appellate review of decisions denying motions to suspend the operation of challenged normative legal acts, contradicts article 61(1) and article 75 of the Constitution of the Republic of Armenia. Consequently, the court declared this provision unconstitutional and null.

Law stated - 13 September 2024

INTERNATIONAL LAW

Incorporation

Is any significant body of international law incorporated into the law of your jurisdiction?

Armenia is a member of the Eurasian Economic Union, within which many acts of the Eurasian Economic Commission influence Armenian legislation. The Eurasian Customs Code is an example of fully harmonised legislation. It came into force on 1 January 2018.

Law stated - 13 September 2024

Relationship to domestic law

Does international law have equal status to domestic law? If not, what is the hierarchy between these bodies of law?

Ratified international contracts have priority over national laws. This means that international contracts hold the same rank as national laws; however, in the event of a conflict with national law, international contracts take precedence in accordance with article 5, paragraph 3 of the Armenian Constitution.

Law stated - 13 September 2024

JUDICIAL REVIEW

Available mechanisms

What mechanisms (eg, judicial review) are available to challenge administrative decision-making by public bodies?

Armenian administrative law provides for the possibility of administrative appeals, meaning that a decision made by an administrative authority can be challenged within the administrative hierarchy at the next higher authority. There is also the option to directly approach the administrative court. However, the appeal procedure is mandatory if acts of the Ministry of Interior are being challenged.

Law stated - 13 September 2024

Decisions subject to review

What types of administrative decisions are subject to judicial review?

All acts of administrative authorities, including administrative decisions, actions (real acts), and omissions, can be fully subject to judicial review.

Law stated - 13 September 2024

Restrictions

Are there any restrictions on judicial review of administrative decisions?

Until 1 January 2025, disputes related to public or alternative (military) service, the execution of such service, and exemptions from service can still be brought before the administrative courts. Starting from 1 January 2025, civil courts will have jurisdiction over these disputes.

Law stated - 13 September 2024

Standing and third-party intervention

Who has standing to bring judicial review proceedings in your jurisdiction? In what circumstances, if any, may third parties intervene in judicial review proceedings?

Any natural or legal person has the right to apply to the administrative court if they believe that an administrative act, action, or omission by a state or local self-government body or its official has:

- violated or could directly violate their rights and freedoms enshrined in the Constitution of the Republic of Armenia, international agreements, laws, or other legal acts, including if:
 - obstacles have been created to the exercise of these rights and freedoms; or
 - necessary conditions for exercising these rights were not provided, although they should have been ensured by the Constitution, international agreements, laws, or other legal acts;
- unlawfully imposed an obligation upon them; or
- been unlawfully subjected to administrative liability through an administrative procedure.

Third parties have legal standing if their rights are affected or may directly be affected by the judicial decision resulting from the case, or if the decision may impact the powers of relevant bodies or officials.

Law stated - 13 September 2024

Challenging legislation

Is it possible to challenge legislation by way of judicial review mechanisms?

Laws passed by Parliament can be challenged by individuals or legal entities before the Constitutional Court of the Republic of Armenia. However, this requires that all judicial remedies have been exhausted.

In contrast, subordinate legal acts can be directly challenged before the administrative courts if the rights of individuals are affected or if there is a risk that these rights will be endangered in the near future.

Law stated - 13 September 2024

Grounds for review

On what grounds may a challenge to administrative decision-making, if any, be brought?

Administrative decisions can be challenged if the decision of the administrative authority violates the rights of the affected person. The administrative court then examines the legality of the decision from a formal perspective – whether jurisdiction, procedure, and form were adhered to – and from a substantive perspective, particularly whether the decision complies with principles such as proportionality or legal certainty.

Law stated - 13 September 2024

Available remedies

What remedies are available if a court upholds a challenge to administrative decision-making?

In the case of an action for annulment, the court can declare the administrative act unlawful and invalid. In a declaratory action, the court may declare the administrative act null and void retroactively (*ex tunc*). In a mandatory action, the administrative court can compel the administrative authority to issue a favourable administrative act. In an action for performance, the court can require the administrative authority to perform a certain action or to refrain from doing so.

Law stated - 13 September 2024

Principles and measure of damages

Is damages one of the remedies available in a successful challenge to administrative decision-making? If so, please summarise the principles, including the measure of damages and any limitations to this remedy.

Compensation for damages is one of the remedies available to everyone when unlawful actions or omissions of state and local self-government bodies or officials, and in cases prescribed by law, even lawful administrative actions, cause harm (see article 62, paragraph 1 of the Armenian Constitution). Additionally, Chapter 15 of the Law on Fundamentals of Administrative Law and Administrative Proceedings of the Republic of Armenia regulates liability for damage caused by administrative actions.

Compensation is not provided unless the administrative body's legal act, action, or omission, which caused harm to a person, is declared unlawful in the prescribed manner.

Compensation for damage is carried out by eliminating the consequences caused by the administrative action or by monetary compensation.

The liable party provides compensation in monetary form if eliminating the consequences is impossible or insufficient or if the costs of eliminating the consequences exceed the amount of property damage caused.

The claim for compensation can be filed within three years from the moment the person became aware or should have become aware of the damage but no later than 10 years from the date of the action, omission, or the entry into force of the legal act that caused the damage.

Law stated - 13 September 2024

Procedural requirements

What are the basic procedural requirements to bring a challenge to administrative decision-making?

The administrative act must be adverse or unfavourable to the claimant and must interfere with their rights. From the moment the administrative act is notified, the claimant has two months to file an action for annulment with the administrative court. In some cases, such as when challenging administrative acts of the Ministry of Interior, an administrative appeal procedure must first be conducted in order for the claim to be admissible.

Law stated - 13 September 2024

Courts

Which courts hear challenges to administrative decision-making in your jurisdiction? Are challenges considered by a separate system of administrative courts or specialist tribunals?

Since 2008, specialised administrative courts have existed in the Republic of Armenia. These courts are responsible for all public law disputes that are not of a constitutional nature (constitutional disputes are handled by the Constitutional Court). Within the administrative judiciary, there is the Administrative Court of Appeal and the Administrative Chamber of the Court of Cassation.

Law stated - 13 September 2024

Time frame

How long does it typically take for a judicial review to be completed?

In 2023 and 2024, the number of cases before the administrative courts doubled, leading to a very high workload for the administrative courts. On average, it now takes 15 months from the filing of a lawsuit to the final decision at the first instance. In very few cases, the Administrative Procedure Code of the Republic of Armenia obliges the administrative courts to make a decision within four months if the procedure is conducted in writing.

Proceedings before the Administrative Court of Appeal take even longer. On average, it takes 13 months from the filing of an appeal for the first hearing to be scheduled. All three instances

are required to issue decisions within a reasonable time, but given the heavy workload of the administrative courts, this can take many months or even years.

Law stated - 13 September 2024

Limitation period

What time limit applies to judicial review claims brought in your jurisdiction?

The administrative courts must conduct the proceedings and issue a decision within a reasonable time. There are only two cases in which the court is required to issue a decision within 4 months: disputes regarding municipal parking fees and disputes related to advertising on public roads (see article 118.2, paragraph 2 of the Administrative Procedure Code of the Republic of Armenia).

Law stated - 13 September 2024

PUBLIC PROCUREMENT

Key legislation

What legislation (if any) governs public procurement in your jurisdiction? What does each piece of legislation cover?

Public procurement legislation is regulated by the Law on Procurement of the Republic of Armenia, which governs the relationships related to the process of acquiring goods, works, and services by procuring entities and defines the basic rights and obligations of the parties involved in these relationships.

The procedure for the implementation of public procurement is established by Government Decision No. 526-N dated 4 May 2017, which regulates the relationships provided in article 5, paragraph 1 of the Law on Procurement regarding procurement planning, approval of specifications for the subject of procurement, preliminary control of procurement, contract execution, management and financing, formation and operation of the evaluation committee, and the procedures and specifics of procurement processes as stipulated by law. It also defines the concept of 'affiliated persons', the cases of restriction on the participation of affiliated persons in procurement procedures, as well as the main terms of the invitation and contract.

Law stated - 13 September 2024

Contract award procedures

What types of contract award procedures are used for public procurement in your jurisdiction? What are the main stages of each procedure?

The types of contract award procedures for public procurement are the following:

- Electronic auction.

- Tender.
- Request for quotation.
- Single-source procurement.

Electronic auctions are held for goods, works, and services included in the list approved by Government Decision No. 534-N of 18 May 2017. There are two types of tenders: open and closed. A closed tender can be either targeted or periodic. The preferred form of procurement is through a tender. Procurement may be conducted through a request for quotation if the procurement price does not exceed 80 million drams and the subject of procurement is not included in the list of goods, works, and services to be acquired through an electronic auction or in the list of goods, works, and services to be acquired through a closed periodic tender.

Procurement may be conducted from a single source if:

- The goods, works, or services to be procured can only be obtained from a single source due to intellectual property rights, special or exclusive rights.
- Due to an emergency or other unforeseen situation, there is an urgent need for procurement, and the use of other procurement methods is not feasible within the required time frame, provided that such a need could not have been objectively foreseen.
- The procuring entity, after purchasing goods from a vendor, decides to procure additional goods from the same vendor that were not included in the original contract but are necessary for the execution of the initial contract due to unforeseen circumstances, provided that:
 - the contract for additional goods cannot be technically or economically separated from the original contract without creating significant difficulty for the procuring entity, and
 - the price of the additional goods does not exceed 10 per cent of the total price of the original contract. Additionally, such a supplemental procurement can only be conducted once under this provision, and the price of the additional goods cannot be set higher than the amount specified in the original contract.
- The procurement price does not exceed 1 million drams.
- The procurement is being conducted outside the territory of the Republic of Armenia

The procurement process consists of the following stages (functions):

- Procurement planning.
- Organisation of the procurement process (including approval of the specifications of the procurement object).
- Contract conclusion.
- Contract execution and management.

Law stated - 13 September 2024

Exemptions

Are there any key exclusions or exemptions to the requirement to follow public procurement procedures?

Procurement may be conducted from a single source if:

- The goods, works, or services to be procured can only be obtained from a single source due to intellectual property rights, special or exclusive rights.
- Due to an emergency or other unforeseen situation, there is an urgent need for procurement, and the use of other procurement methods is not feasible within the required time frame, provided that such a need could not have been objectively foreseen.

Law stated - 13 September 2024

Redress mechanisms

Are any procedures available to provide effective redress in respect of the breach of public procurement laws? If so, are these the same procedures as those used to challenge administrative decision-making (eg, judicial review)?

Any interested party has the right to appeal the actions (or inactions) and decisions of the procuring entity or evaluation committee. The claim must be filed with the general jurisdiction civil court. In this sense, article 46, paragraph 1 of the Law on Procurement of the Republic of Armenia provides for a special assignment to the ordinary civil courts. As a result, administrative courts are not competent for such claims.

Law stated - 13 September 2024

HUMAN RIGHTS

Key legislation and scope

What is the key human rights legislation in your jurisdiction? What does each piece of legislation cover?

The Armenian Constitution regulates numerous fundamental rights in its second chapter. These range from human dignity, freedom of assembly and expression, to the inviolability of the home and the right to receive legal assistance.

The Armenian Constitution does not explicitly recognise social rights. However, in its third chapter, it outlines state objectives, which oblige the legislature to ensure, to the extent possible, the following social securities by law: working conditions, social security, a dignified existence and minimum wage, and healthcare.

Law stated - 13 September 2024

Private enforcement of international law

Do the laws of your jurisdiction incorporate international human rights law in a manner that allows its enforcement by private citizens?

International human rights law is not directly enforceable by private citizens in Armenia. While Armenia is a party to various international human rights treaties, these international agreements must be incorporated into national legislation to be directly enforceable. Although the Constitution recognises the priority of international treaties over domestic laws in case of conflict, private citizens cannot directly enforce international human rights law in national courts unless it has been implemented through domestic legislation.

Law stated - 13 September 2024

Enforcement against private individuals

Do your jurisdiction's human rights laws regulate acts carried out by private individuals in addition to those of the state?

Human rights laws in Armenia primarily regulate actions carried out by the state and its authorities, not private individuals. While certain civil and criminal laws may govern interactions between private individuals, the human rights protections outlined in the Armenian Constitution and other legal frameworks are mainly aimed at ensuring that the state does not violate the fundamental rights of individuals.

Law stated - 13 September 2024

FREEDOM OF INFORMATION

Key legislation

Is there legislation in your jurisdiction around freedom of information (ie, requiring the disclosure of certain types of information held by public bodies)?

The right to freedom of information is regulated at the constitutional level in article 51 of the Armenian Constitution, which states that:

Everyone has the right to access information and familiarise themselves with documents regarding the activities of state and local self-government bodies and officials.

At the legislative level, the Freedom of Information Law of the Republic of Armenia governs the procedures for requesting information.

Law stated - 13 September 2024

Exemptions

Are certain types of information held by public bodies exempt from mandatory disclosure?

The limitations on the right to freedom of information are regulated in article 8 of the Freedom of Information Law, according to which the information holder is obliged to refuse the provision of information if it:

- Contains state, banking, commercial secrets, or restricted service-related information.
- Violates the privacy of an individual's personal and family life, including the confidentiality of correspondence, telephone conversations, postal, telegraphic, and other communications.
- Contains information from a criminal proceeding that is not subject to disclosure.
- Reveals data that require restricted access due to professional confidentiality (medical, notarial, legal secrets).
- Violates copyright or related rights.

Law stated - 13 September 2024

Procedural requirements

What are the main procedural requirements to obtain disclosure of information held by public bodies?

Every person has the right to access the information they seek or submit a request to the information holder in accordance with the law to obtain that information¹

A response to a written request is provided within the following time frames:

- If the information requested in the written inquiry is not publicly available, a copy of the information is provided to the applicant within five days of receiving the request.
- If the information requested in the written inquiry is publicly available, details about the publication method, location, and time are provided to the applicant within five days of receiving the request.
- If providing the information requested in the written inquiry requires additional work, the information is provided to the applicant within 30 days of receiving the request. The applicant must be informed in writing within five days of receiving the request, explaining the reasons for the delay and specifying the final deadline for providing the information.

Law stated - 13 September 2024

PUBLIC INQUIRIES

Available mechanisms

Are there any mechanisms for the government to order an official review of events or actions, such as public inquiries or commissions?

The government, as a collective body, does not have specific authority to review certain events (although it can, of course, respond to certain events in a political sense, for example, with statements). However, ministries and the inspectorates under their supervision can investigate cases arising in areas designated by law (such as taxes, building safety, fire safety, food safety, etc) and impose certain sanctions.

The Armenian Constitution provides for the establishment of parliamentary inquiry committees, primarily intended as a right of the opposition, to review and address events of public interest.

Law stated - 13 September 2024

Key legislation

What (if any) legislation governs public inquiries?

For the inspectorates, the Law on Inspectorates regulates certain powers of the respective inspectorates. Depending on their jurisdiction, these powers are further specified in more specialised laws.

For parliamentary inquiry committees, the Constitutional Law on the Rules of Procedure of the National Assembly (not to be confused with the Constitution) regulates the establishment of inquiry committees and defines their powers.

Law stated - 13 September 2024

Recent cases

Are there any recent high-profile examples of public inquiries or related review processes?

A recent high-profile public inquiry in Armenia is the parliamentary commission established on 10 February 2022, to investigate the circumstances surrounding the military actions that began on 27 September 2020. The inquiry focuses on the causes and conditions of the war, the timeline of events, the losses suffered, political and military failures, defence preparedness, the actions of military leadership, and the state of negotiations. It also includes examining criminal cases related to military events during and after the conflict.

Law stated - 13 September 2024

UPDATE AND TRENDS

Emerging trends and hot topics

Have there been any key emerging trends or hot topics in administrative and public law in your jurisdiction?

A key emerging trend in Armenian administrative and public law is the shift in jurisdiction over disputes related to public or alternative services. Following the amendment introduced by Law HO-220-N on 2 May 2024, article 10(1)(1) of the Administrative Procedure Code was repealed. As a result, from 1 January 2025, such disputes will no longer be heard by the administrative court but will fall under the jurisdiction of the general jurisdiction courts.

Law stated - 13 September 2024