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Armenia

WHITE COLLAR CRIME

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This country-specific Q&A provides an overview of white collar crime laws and regulations applicable in Armenia.

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ARMENIA

WHITE COLLAR CRIME



1. What are the key financial crime offences applicable to companies and their directors and officers? (E.g. Fraud, money laundering, false accounting, tax evasion, market abuse, corruption, sanctions.) Please explain the governing laws or regulations.

The main financial crimes that can be attributed to legal entities, their directors and employees are provided in Chapter 32 of Section 10 of the Criminal Code of the Republic of Armenia. Those crimes are:

- Preparing, storing, transporting, delivering, acquiring or selling counterfeit currency, foreign currency, securities, other settlement documents or payment instruments for the purpose of sale (Article 267);
- Improper use of inside information (Article 268);
- Price abuse in the securities market (Article 269);
- Deliberately false advertising (Article 270);
- Removing goods from the commodity market that fall into the minimum expenditure basket (Article 271);
- Taking a bribe in the private sector (Article 272);
- Giving a bribe in the private sector (Article 273);
- Abusing official powers or influence resulting from them in the private sector (Article 277);
- Illegal use of commercial, insurance, tax, customs, pension, service or bank secret information or credit history or credit information available in a credit bureau (Article 278);
- Illegal disclosure of commercial, insurance, tax, customs, pension, service or bank secret information or credit history or credit information available in a credit bureau (Article 279);
- Illegal entrepreneurial activity (Article 281);
- Creating, organising or managing a financial pyramid (Article 282);
- Abuses in public bidding or procurement (Article 283);
- Anti-competition activity (Article 284);
- Creating or using a legal entity, its separate division, an institution for the purpose of carrying out illegal activities or concealing illegal activities, or registering as an individual entrepreneur for the same purpose (Article 285);
- Providing false documents without supplying goods or without providing services, preparing and submitting false documents regarding expenses or income (Article 286);
- Illegal Activities During Bankruptcy (Article 287);
- Deliberate bankruptcy (Article 288);
- Making, keeping, transporting, delivering, acquiring, or using or selling counterfeit excise stamps or stamps for the purpose of sale (Article 289);
- Failure to pay taxes, duties, or other charges (Article 290);
- Smuggling of cash and (or) payment instruments (Article 291);
- Inclusion of false information in declaration of beneficial owners or concealment of information to be submitted (Article 294);
- Acquisition, sale, or assistance in the sale of property obtained by criminal means (Article 295);
- Money laundering (Article 296).

In general, criminal responsibility for all crimes, including crimes of a financial nature, is provided only by the Criminal Code of the Republic of Armenia.

The provision of financial crimes in the criminal legislation is due to the importance of protecting the legal system of the financial and economic sphere of the Republic of Armenia, the participants of economic circulation, the economic interests of the society and the state, because they directly encroach on entrepreneurial

activity, monetary relations and the financial activity of the state.

The objective side of financial crimes is manifested mainly by action (illegal business activity, intentional bankruptcy), in some cases by omission (non-payment of the taxes, fees or other payments expressed by not submitting reports). For some crimes, material consequences (small, large and particularly large property damages) are provided as a mandatory feature for the objective side. Moreover, some articles of the Criminal Code contain incentive norms (creating, organising or leading a financial pyramid).

All financial crimes are subjectively characterised by intent.

The subject of the crimes in question can be a sane natural person over the age of 16. The presence of a special entity (unscrupulous use of inside information) is envisaged for some crimes.

2. Can corporates be held criminally liable? If yes, how is this determined/attributed?

In the Republic of Armenia, a legal entity established in accordance with the legislation of the Republic of Armenia or established in a foreign country is subject to criminal liability.

A legal entity is subject to criminal liability if:

- the crime was committed by a person who has the authority to influence the activity of the legal entity or the decisions made by it, or with the permission or instigation of such a person by a person representing the legal entity, acting on behalf of the legal entity and acting in the interest of the legal entity,
- the legal entity did not ensure the fulfilment of the duties stipulated by the law regulating its activity or other legal act, which led to the commission of a crime by a person who has the authority to influence the activity of the legal entity or the decisions made by it, a person representing the legal entity or an employee of the legal entity,
- the crime was committed by a person who has the authority to influence the activity of a legal entity or the decisions made by it, or a person representing a legal entity, acting on behalf of a legal entity or through a legal entity (using it).

3. What are the commonly prosecuted offences personally applicable to company directors and officers?

The practice of investigating financial crimes shows that public criminal prosecutions are often initiated against the director or employee of a legal entity for non-payment of taxes, duties or other fees and intentional bankruptcy.

4. Who are the lead prosecuting authorities which investigate and prosecute financial crime and what are their responsibilities?

Investigators of the Investigative Committee of the Republic of Armenia and the Anti-Corruption Committee of the Republic of Armenia initiate criminal proceedings and carry out preliminary investigations within their jurisdiction. Public criminal prosecution against a person is initiated by the decision of the supervising prosecutor based on the facts proving the commission of the crime by him. In addition, the supervisory prosecutor initiates a public criminal prosecution both on the basis of the petition of the investigator and on his own initiative.

The investigator is responsible for the comprehensiveness of the preliminary investigation, its normal course, the execution of investigative actions in the order and time prescribed by law, as well as the legality of the coercive measures he uses.

The prosecutor is responsible for the legality of initiation, non-prosecution and termination of criminal prosecution, the legality of pre-trial proceedings, the legality of the use of coercive measures by public participants in the proceedings, the raising of the circumstances necessary to defend the public charge in court or initiate a lawsuit for the protection of state interests, as well as the legality of appeal or non-appeal of a judicial act.

5. Which courts hear cases of financial crime? Are trials held by jury?

Cases related to financial crimes are examined by the courts of first instance of general jurisdiction of the Republic of Armenia and the anti-corruption court of the Republic of Armenia, which is a specialised court.

According to Armenian legislation, the implementation of justice is reserved only to the courts, and there is no provision for the institution of jury.

The judicial acts of the courts of first instance of general jurisdiction of the Republic of Armenia are subject to

appeal to the Criminal Court of Appeal of the Republic of Armenia in the order of appeal, and to the Court of Cassation of the Republic of Armenia in the order of cassation.

Judicial acts of the Anti-Corruption Court of the Republic of Armenia are subject to appeal to the Anti-Corruption Court of Appeal of the Republic of Armenia in the order of appeal, and to the Court of Cassation of the Republic of Armenia in the order of cassation.

6. How do the authorities initiate an investigation? (E.g. Are raids common, are there compulsory document production or evidence taking powers?)

Investigators of the Investigative Committee of the Republic of Armenia and the Anti-Corruption Committee of the Republic of Armenia initiate criminal proceedings within the limits of their competence, if a proper report on an apparent crime has been received:

- 1) from a natural person;
- 2) from a legal entity;
- 3) from the state or local self-government body or its official in connection with the implementation of its activities;
- 4) from the body carrying out operative-investigative activity, investigator, prosecutor or judge in connection with exercising his powers.

In each case of receiving a proper report about the crime, the investigator immediately, but not later than within 24 hours, draws up a record of initiating criminal proceedings. After drawing up the report, the investigator immediately begins the preliminary investigation.

With the preliminary investigation carried out by the initiated criminal proceedings, the investigator can perform the necessary evidentiary actions to obtain the necessary documents and other evidence. Within the framework of a specific proceeding, the investigator can also issue an order to the investigative body to perform secret investigative actions. In addition, the investigative body can, on its own initiative, carry out operative-investigative measures in order to obtain data important for the criminal proceedings.

In order to prevent the detection of crimes and to find data necessary for revealing crimes, raids (in Armenian legislation – operational-investigative measures) are regularly carried out by operational-investigative bodies.

As a result, criminal proceedings can be initiated in case of obtaining information about crimes. Operational investigative measures are, for example, control purchase, control supply and purchase, examination of items and documents, control of financial transactions, etc.

7. What powers do the authorities have to conduct interviews?

Interrogation is an investigative action performed by an investigator. Interrogation has the aim to find out circumstances important for the proceedings by asking questions to the witness, the victim, the expert, the accused or the arrested person.

During the interrogation, the interrogator may be presented with evidence to familiarise himself with it or the data contained in it.

The investigator may also perform confrontation investigative action, that is, simultaneous questioning of two previously interrogated persons, whose testimonies contain significant contradictions.

8. What rights do interviewees have regarding the interview process? (E.g. Is there a right to be represented by a lawyer at an interview? Is there an absolute or qualified right to silence? Is there a right to pre-interview disclosure? Are interviews recorded or transcribed?)

The extent of the rights of the interviewee depends on the latter's procedural status. Everyone has the right to appear before the criminal prosecution authorities together with his lawyer.

The victim and the witness are obliged to testify if they are called for questioning by the investigator. The latter have the right to refuse to testify or provide materials if it is reasonably assumed that they may be used against him or his spouse or a close relative in the future.

The questioned witness and the victim are clarified that they are not obliged to testify about themselves, their spouse or close relatives. The witness is warned about the duty to answer the questions truthfully, the criminal responsibility for refusing to testify and giving false testimony.

The accused has the right to remain silent or testify, including in the presence of a defence attorney. If the accused expresses a desire to testify, the investigator

informs him of the obligation to testify correctly and warns him of the responsibility for giving a false testimony. That fact is certified by the signature of the accused.

Before the interrogation, the investigator verifies the identity of the interviewee, informs him about the proceedings in connection with which he has been invited, and clarifies the rights and obligations arising from his judicial status.

The interrogation is video recorded. In case of video recording of the interrogation, the testimonies, including the questions and answers, as well as other actions performed during the interrogation, are being recorded only by video recording.

9. Do some or all the laws or regulations governing financial crime have extraterritorial effect so as to catch conduct of nationals or companies operating overseas?

The issue of criminal liability of a person who commits an act outside the territory of the Republic of Armenia under the criminal law is resolved by the Criminal Code of the Republic of Armenia, if the committed act is aimed against the interests of the Republic of Armenia, a citizen of the Republic of Armenia, including a person with dual citizenship, as well as a stateless person permanently residing in the Republic of Armenia, against the rights and freedoms of a person or legal entity residing in the Republic of Armenia as a refugee, seeking asylum or receiving asylum.

10. Do the authorities commonly cooperate with foreign authorities? If so, under what arrangements?

Providing international legal assistance and international legal communication in criminal proceedings for all crimes, including financial crimes, is carried out in accordance with the procedure established by the criminal law, in accordance with the international treaties ratified by the state.

These international treaties are:

- Minsk Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters (adopted in 1993);
- Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (adopted in 1990);

- Convention on Laundering, Search, Seizure and confiscation of the proceeds from crime and on the financing of terrorism (adopted in 2005);
- Civil Law Convention on Corruption (adopted in 1999);
- Criminal Law Convention on Corruption (adopted in 1999).

Providing international legal assistance and international legal communication in criminal proceedings for all crimes, including financial crimes, is carried out in accordance with the procedure established by the criminal procedure code, in accordance with the international treaties ratified by the state.

11. What are the rules regarding legal professional privilege? Does it protect communications from being produced/seized by financial crime authorities?

The Constitution of the Republic of Armenia envisages the right to legal assistance.

The latter assumes that the body implementing the procedure is not authorised to prohibit the presence of the lawyer in the procedure performed with the participation of their client (regardless of individual or legal entity).

The defender has the right to meet with his client in a consultative manner (confidential), without hindrance, without restrictions on visits, except for the cases of conducting administrative actions with the participation of the accused.

An attorney cannot be prosecuted, charged criminally, arrested, detained or subjected to other restrictions of rights in connection with the performance of his professional duties, including for the opinion or position expressed in the proceedings and other bodies.

An attorney, a non-attorney working for an attorney, as well as an employee of the Chamber of Advocates do not have the right to disclose the advocate's secret, except for the cases provided for in this article.

An attorney may disclose the attorney's secret if:

- there is the consent of the client;
- it is necessary for justifying the claims or for his defence in a legal dispute or disciplinary proceeding between him and the client;
- it is necessary for the implementation of the Law of the Republic of Armenia "On

Combating Money Laundering and Terrorist Financing”.

12. What rights do companies and individuals have in relation to privacy or data protection in the context of a financial crime investigation?

The public authorities of the Republic of Armenia, as well as the courts, have the right to request, receive and use the personal data of persons of interest in order to collect evidence within the framework of the criminal proceedings initiated in connection with the crime.

- when there are facts indicating the commission of an alleged crime concerning the individual;
- when the individual is accused of committing a crime;
- when there is a reasonable suspicion that the accused regularly communicates directly or can reasonably communicate with the individual in question,
- as well as against a legal entity when there is a reasonable suspicion that a legal entity's activity is completely or partially managed, controlled, or directed by the accused.

According to the criminal procedure code, during the performance of operative-investigative actions or evidentiary actions, information containing personal data can be obtained in judicial and extrajudicial means.

Only on the basis of a court decision are carried out:

- search and seizure in the apartment.
- the inspection in the apartment that is not the scene of the incident and the subsequent inspection in the apartment that is the scene of the incident; digital search.
- confiscation of correspondence and other forms of communication;
- confiscation of documents and objects containing medical, notarial, banking or related secrets;
- confiscation of digital data contained in electronic devices or media.

Other evidentiary actions are carried out by the decision of the investigator or the approval of the prosecutor. Besides, in case of having data on serious and particularly serious crimes being prepared, the operative-investigative body is entitled to carry out an operative-investigative measure by obtaining data even in the absence of initiated proceedings. Such activities are subject to post factum supervision by the prosecutor

or beforehand supervision by the court.

The code of criminal procedure envisages the exception from the general rule stating that collecting, storing or using information or material that constitutes an attorney's secret is prohibited.

However, it should be noted that the information obtained during the preliminary investigation is considered a preliminary investigation secret and is not subject to publication if:

- obstruct the normal process of pre-trial investigations;
- become a reason for committing a crime;
- endanger the rights or legitimate interests of the participants in the proceedings or other persons;
- lead to the publication of a secret protected by law (e.g. banking secret).

On the contrary, the judicial examination in the Republic of Armenia is public as a rule, but based on the content of the available information, it is possible to ask the court to conduct the judicial examination confidentially.

However, when data is obtained by illegal measures, the person has the right to appeal against the decision, which may result in recognizing the obtained evidence inadmissible.

13. Is there a doctrine of successor criminal liability? For instance in mergers and acquisitions?

The Criminal Code of the Republic of Armenia does not envisage criminal liability for the successor legal entity, although in the case of mergers and acquisitions, problems may arise, which may receive new solutions in practice in connection with the application of this new institution.

14. What factors must prosecuting authorities consider when deciding whether to charge?

Public criminal prosecution against a person is initiated by the decision of the supervising prosecutor based on the facts proving the commission of the crime by him.

In the decision to initiate criminal prosecution, the person's name, surname, patronymic and other necessary information about him, the factual basis of the accusation – the nature of the alleged act, the place, time, method and other circumstances of execution, as

far as they are established by the available evidence, as well as the criminal code the article or the part of the article or the clause by which responsibility is provided to the person for the commission of the act (legal evaluation of the act).

In the event that a person is charged with several acts provided by different articles, parts or clauses of the Criminal Code, the factual basis and legal assessment of each of them shall be indicated in the decision.

The investigator, having ascertained the identity of the accused, hands him a copy of the decision to initiate criminal prosecution, explains the factual basis and legal assessment of the accusation, clarifies the rights and responsibilities of the accused, as well as hands the list of them to the accused.

15. What is the evidential standard required to secure conviction?

When making a verdict, the court resolves the following questions in the presented sequence:

- have the factual circumstances attributed to the accused been proven?
- has the criminal illegality of that act been proven?
- has it been proven that the accused committed that act?
- has it been proven that the accused is guilty of committing the given act?

In case of a negative answer to any of the mentioned questions, the court issues a verdict of acquittal.

In the event of an affirmative answer to all the mentioned questions, the court issues an indictment verdict, by which it also determines which article, part of the article, or point of the Criminal Code is applicable to the proven act.

A guilty verdict cannot be based on assumptions and is made only when the accused is proven guilty of the crime during the trial. The guilt of the accused in committing the crime can be considered proven if the court, guided by the presumption of innocence, based on the results of proper proof, reaches a conclusion about the guilt of the accused.

16. Is there a statute of limitations for criminal matters? If so, are there any exceptions?

The Criminal Code of the Republic of Armenia provides

the release from criminal liability as a result of the expiration of the statute of limitations.

A person is released from criminal responsibility if the following periods have passed since the day after the crime was completed:

- 5 years, in the case of a minor crime;
- 10 years in the case of a crime of medium severity;
- 15 years in the case of a serious crime;
- 20 years in the case of a particularly serious crime.

The Criminal Procedure Law provides non-application of the statute of limitations, which is not applicable in the case of financial crimes.

In addition, the statute of limitations is suspended if the person avoids the investigation. In this case, the statute of limitations starts again from the moment of the person's arrest or appearance before the criminal investigation body.

In any case, the statute of limitations is calculated from the day following the completion of the crime until the decision to initiate criminal prosecution against the person is made, so avoiding the investigation by the accused cannot lead to the termination of the criminal prosecution on this basis.

17. Are there any mechanisms commonly used to resolve financial crime issues falling short of a prosecution? (E.g. Deferred prosecution agreements, non-prosecution agreements, civil recovery orders, etc.) If yes, what factors are relevant and what approvals are required by the court?

Articles defining a number of financial crimes provided by the Criminal Code of the Republic of Armenia contain incentive norms, that is, a person who has committed a crime is released from criminal liability if he has fully compensated the property damage caused by the crime and the calculated penalties (creating, organising or managing a financial pyramid, illegal entrepreneurial activity, willful bankruptcy, failure to pay taxes, duties or other charges, etc.).

In the case under discussion, if the property damage caused by the crime and the calculated penalties are fully compensated by the person who committed the crime, the criminal prosecution initiated against the person by the investigator at the preliminary

investigation stage, and by the court at the judicial investigation stage, is terminated.

18. Is there a mechanism for plea bargaining?

The plea bargain procedure is provided by the Criminal Procedure Code, which applies only after the accused pleads guilty.

In order to apply for the conciliation procedure, the accused submits a motion during the preliminary hearings. After granting the motion to apply for conciliation proceedings, the public prosecutor starts negotiations with the accused and their defence attorney in order to reach an agreement. In the event that the damage caused by the crime has not been compensated, but the victim has not objected to the application of conciliation proceedings, the public prosecutor, with the consent of the victim, involves the victim in the negotiations. The agreement is considered reached from the moment the accused, their defence counsel, the public prosecutor and the victim, in case of participating in the negotiations, sign the protocol of agreement.

A conciliation procedure cannot be applied if:

- the person is accused of committing a particularly grave crime;
- one of the several defendants involved in the proceedings' objects to the application of conciliation proceedings;
- the accused does not have a defence attorney or submitted the motion without consulting a defence attorney;
- the public prosecutor objects on legal or factual grounds to the application of conciliation proceedings;
- it is apparently justified that the damage caused by the crime has not been compensated, and the victim objects against the application of the conciliation procedure.

19. Is there any requirement or benefit to a corporate for voluntary disclosure to a prosecuting authority? Is there any guidance?

When prosecuting a legal entity or appointing measures of criminal legal intervention (penalty) applied to a legal entity, two circumstances are taken into account, which are of key importance for excluding the criminal responsibility of a legal entity or determining the type and extent of the measure of criminal legal intervention

to be assigned to a legal entity. Their content comes down to whether the persons responsible for the activity of the legal entity took the necessary measures to prevent the commission of the crime or to neutralise the consequences of the already committed crime.

A legal entity is not subject to criminal liability if the legal entity's participants, shareholders, or equity holders took reasonably necessary measures to prevent the commission of a crime, but there was no real opportunity to prevent the crime.

When determining the type and size of the measure of criminal intervention against a legal entity, the nature and degree of danger of the committed crime, the nature and extent of the damage caused by the crime, the causes and conditions contributing to the crime, the measures taken by the legal entity to neutralise the consequences of the crime, the actions of the persons who committed the crime, the legal entity are taken into account. the legitimate interests of bona fide participants, shareholders or shareholders who did not know and could not have known about the crime being committed or committed, the circumstances characterising the legal entity, including its role in the financial market, as well as the conviction.

20. What rules or guidelines determine sentencing? Are there any leniency or discount policies? If so, how are these applied?

The criminal liability and the sentence of legal entities and individuals are determined by the Criminal Code of the Republic of Armenia.

The punishment is appointed on behalf of the state by a court verdict against a person found guilty of a crime. The type and amount of the punishment is determined by the nature and extent of the damage caused by the crime, the method, place, time of the crime, the motives and goals of the crime, the type of intent or carelessness, the mitigating and aggravating circumstances of responsibility and the punishment, as well as the process of resocialization of the criminal and the formation of law-abiding behaviour. and the impact on his family's living conditions. A custodial sentence may be imposed if the court finds that a more lenient sentence cannot achieve the goals of the sentence.

Concerning the types of sentences, it needs to be mentioned that the sentences for individuals and legal entities are different and are explicitly stipulated by the law.

The Criminal Code envisages the circumstances that are considered as lenient, such as committing the crime for the first time due to a random combination of circumstances, the criminal's pregnancy at the time of committing a crime or imposing a sentence, the criminal being over 65 years old at the time of committing the crime or imposing the punishment etc. The Code also stipulates the exact measures that may be undertaken as a discount policy. Hence, those measures are not applying the sentence conditionally, parole from serving the sentence, postponing the execution of the sentence for a pregnant woman or a person with a child under the age of 6 in their care, release from the sentence or postponing the sentence due to illness, replacing the sentence with a milder sentence or release from the sentence, release from the sentence due to extraordinary circumstances, release from the punishment due to criminal as a result of the expiry of the statute of limitations. These policies are applied by the court considering the sanction specified in the article in the Special part of the Code.

21. In relation to corporate liability, how are compliance procedures evaluated by the financial crime authorities and how can businesses best protect themselves?

Even though the regulations concerning the criminal liability of the legal entities have come into force since July 1, 2023, there are still no criminal cases against legal entities, hence there are no actual evaluations.

Legal entities should develop and apply such internal control and/or compliance systems that will enable them to detect the reasons and conditions that give rise to the crime, to prevent the commission of the crime, thereby protecting the interests of the company.

22. What penalties do the courts typically impose on individuals and corporates in relation to the key offences listed at Q1?

As long as there are no ongoing or finished procedures against legal entities, the penalties stipulated by the code are not applied yet. Still, the Code envisages the penalties that can be applied to the legal entities:

- Fine,
- Temporary suspension of the right to engage in a certain type of activity,
- Compulsory liquidation,
- The ban on carrying out activities in the territory of the Republic of Armenia.

The following types of penalties are usually applied by the courts for managers or employees of organisations:

Fine: The fine is set as the main punishment for crimes of minor crimes and medium gravity, in the amount of five to fifty times the monthly income of the person who committed the crime.

Public works: Public work is the performance of unpaid work by the convicted person during their free time from studies or work at the place designated by the court and determined by the competent body, which does not endanger their physical or mental health. Public works, with the consent of the convicted person, are set for no more than 4 hours a day for minor crimes and medium gravity crimes, with a duration of 60-270 hours.

Restriction of liberty: The restriction of liberty is to keep the convict under supervision at home without interrupting their studies or work. Restriction of liberty is prescribed for minor crimes and medium gravity crimes for a period of 6 months to 3 years.

The court, imposing a restriction of liberty, prohibits the person who committed the crime from visiting various entertainment or other institutions, organising, participating, or attending certain events or changing the place of residence or being absent from home for certain hours without the consent of the competent authority exercising control over the convicted person. One or more prohibitions may be imposed on the convict.

Short-term imprisonment: Short-term imprisonment is the detention of a convict in a penitentiary institute in strict isolation from society. Short-term imprisonment is assigned to a person who has not previously been sentenced to deprivation of liberty, who has committed minor crimes and medium gravity crimes, for a period of 15 days to 2 months.

Imprisonment: Imprisonment is imposed for a period of 3 months to 20 years. The Criminal Code also provides life imprisonment, but not for financial crimes. The provisions of the Criminal Code regarding the type of punishment for restriction of liberty shall enter into force on July 1, 2023.

23. What rights of appeal are there?

The legal framework of appeals has gone through several structural changes in the context of the new Criminal Procedure Code. In particular, the new regulations are more systematised. Firstly, the new Code regulates the rules of appeals in general. Secondly, the procedure before the Criminal Court of Appeal and the

Court of Cassation is stipulated. Thirdly, the new Code stipulates the appeals in frames of pre-judicial stage of proceedings. Lastly, the cases of exceptional appeals are regulated.

Act of the court, as well as act of the public participant of criminal proceedings, such as the e.g. the investigator or the prosecutor, (this frame includes the decisions, actions and omissions by public officials) can be appealed by a private participant in the criminal proceedings, such as e.g. the accused or the defender, as well as by any other person whose legal interests are related to the given criminal proceedings act, in frames of the established procedure within a seven-day period, if no other term of appeal is established by the Code.

The act of the head of the investigative body, of the investigator can be appealed to the supervising prosecutor, the procedural act of the supervising prosecutor can be appealed to the superior prosecutor, the judiciary act may be appealed to a higher court. In the cases provided by law, the procedural act of the public participant may be appealed directly to the court. Otherwise, a private participant of the criminal procedure in order to appeal an act, action or omission to the court, is firstly obliged to appeal it before the prosecutor.

24. How active are the authorities in tackling financial crime?

The main department for the investigation of economic crimes and smuggling has been established within the investigative committee of the Republic of Armenia, consisting of five departments, which is responsible for the investigation of economic crimes throughout the territory of the Republic of Armenia. The establishment of this main department is an indicator of greater concentration on the investigation of economic/financial crimes. In addition, the Anti-corruption committee has been established as a professional body investigating the crimes that are considered as corruption crimes by law (fraud, embezzlement of entrusted property, extortion etc.). The crimes that have been investigated by the anti-corruption committee are subject to the Anti-corruption court (in case of appeal – the Anti-corruption court of appeal and the anti-corruption chamber of the Court of Cassation of the Republic of Armenia). So there are some special institutional changes that indicate the expected active tackling of financial crimes.

25. In the last 5 years, have you seen any trends or focus on particular types of

offences, sectors and/or industries?

During the last 5 years there has been a high focus by both the legislative and the executive on corruption offences. An anti-corruption investigative body has been established, which also investigates cases related to some financial crimes. In addition, an anti-corruption court has been established as a specialised court as well as an anti-corruption court of appeal and an anti-corruption chamber at the Court of Cassation of the Republic of Armenia.

26. Have there been any landmark or notable cases, investigations or developments in the past year?

According to official data, such financial crimes, which are carried out using modern technical means, have recently become widespread. The criminal proceedings regarding the registered criminal cases related to non-payment of taxes, duties or other payments by companies are noteworthy.

Thus, for a long time, a number of two companies have shown the sales turnover less than the actual sales turnover in the calculations-reports for the relevant period submitted to the tax authority. Those companies expanded their business activities by implementing shadow trading programs combined with a hidden electronic server system, submitted distorted data to the tax authority, under which conditions they caused a total loss of 5.5 billion AMD (about 14 million US dollars) to the state.

27. Are there any planned developments to the legal, regulatory and/or enforcement framework?

In April 2023, drafts of the Law of the Republic of Armenia “On Amendments and Addendums to the Tax Code of the Republic of Armenia” and “On Amendments and Addendums to the Criminal Procedure Code of the Republic of Armenia” were put into circulation.

The drafts stipulate that in case of adoption of a final judicial act in the proceedings of non-payment of taxes, duties and other fees for financial crimes, accounting of the tax payer’s tax obligations and debit amounts to the state budget should be carried out on the basis of a specific proceeding or case adopted in accordance with the Code of Criminal Procedure of the Republic of Armenia and the tax obligations confirmed by the final procedural act entered into force.

The abovementioned means that the bodies conducting the criminal proceedings are no longer constrained by the decisions or judgments of the administrative body or the court as a result of the appointed inspection or re-inspection, as well as their appeal. A new concept is adopted, which implies the determination of the final amount of tax liabilities and consequently the damage caused as a result of the administrative actions carried out by the body conducting the criminal proceedings, which must be reflected in the final procedural act of the proceedings. In addition, the data provided by the mentioned final act are taken as a base by the tax authority.

As a result of the aforementioned legislative change, in the already initiated criminal proceedings, the determination of the nature and amount of the tax obligations not fulfilled by the subject will be carried out exclusively by using the criminal procedure tool, without using the administrative tool, which will be of key importance in the sense of the formation of the new practice of investigating the discussed financial crime.

28. Are there any gaps or areas for improvement in the financial crime legal framework?

In the conditions of establishment of the institution of criminal responsibility of legal entities, several problems arise. First, the measures of influence provided by the Criminal Code for legal entities are also defined in the Code on Administrative Offences, so the criminal responsibility of legal entities shifts from administrative to criminal, making the influence of coercive measures

heavier.

In addition, the criminal responsibility of legal entities comes after the natural person is held responsible, so it turns out that the criminal responsibility of a legal person is derived from the responsibility of a natural person, that is, it is not independent.

Referring to the procedural safeguards for legal entities, it should be noted that the new code does not provide the procedural safeguards defined for a natural person, for example, can an employee of a legal entity who has the status of a witness in a case refuse to testify, there is no regulation of this issue, which reduces the possibilities of legal entity efficient protection.

There is also a gap in the law regarding the determination of the proper subject that is subject to criminal liability in case of reorganisation of a legal entity, that is, it is not clear which legal entity will be considered the proper subject of criminal liability in case of some forms of reorganisation, for example, division.

Though, the criminal responsibility of the legal entities is presumed for all the legal entities, without exceptions, the cases related property damage caused to the state and its' rehabilitation, are emphasised, which provokes problems concerning the exercise of these legal provisions.

Finally, there is no restriction for the beneficiaries of the legal entity after the forced liquidation from the point of view of establishing another legal entity carrying out the same activity again, which renders the criminal liability of the legal entity meaningless.

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