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# CRIMINAL RISK PREVENTION MODEL

Enel Colombia

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VERSION 5

enel

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# DEFINITIONS

**Risk Areas:** Areas of activity of Enel Colombia, its subsidiaries and affiliates, in the perimeter of Colombia, Costa Rica, Guatemala and Panama, where there is a higher risk of a crime being committed.

**Code of Ethics:** Set of commitments and responsibilities of an ethical nature, in the development of business and corporate activities, assumed by the people of the Group's companies. The Code of Ethics of Enel Colombia, its subsidiaries and affiliates, in the perimeter of Colombia, Costa Rica, Guatemala and Panama, has been approved by the highest governing body of the respective companies.

**Employees:** People who work for Enel Colombia, its subsidiaries and affiliates, in the perimeter of Colombia, Costa Rica, Guatemala and Panama, under a relationship of subordination and dependence, including managers.

**Audit Committee:** Support and evaluation committee of the Board of Directors, mandatory for companies that are issuers of securities, responsible for supervising the planning, compliance and resources associated with the Compliance activities of Enel Colombia, its subsidiaries and affiliates, in the perimeter of Colombia, Costa Rica, Guatemala and Panama.

**Crime:** Statutorily defined (described by law), unlawful (contrary to law) and negligent conduct, action or omission, to which corresponds a sanction called penalty, with objective conditions of punishability.

**Enel Global Compliance Program (EGCP) - GLOBAL CORPORATE RESPONSIBILITY COMPLIANCE PROGRAM:** A tool to reinforce the Enel Group and the Enel Group companies' commitment to the best ethical, legal and professional standards, aimed at enhancing and defending the Group's reputation, based on preventive measures focused on criminal liability in the corporate sphere.

**Governing Body:** Sole manager or jointly and severally liable officials, such as the General Shareholders' Meeting or the Board of Directors, as appropriate, that make up the governing bodies of Enel Colombia, its subsidiaries and affiliates, in the perimeter of Colombia, Costa Rica, Guatemala and Panama.

**Associates:** Individual or entity with which Enel Colombia, its subsidiaries and affiliates, in the perimeter of Colombia, Costa Rica, Guatemala and Panama currently have, or are in the process of negotiating potentially in the future, a commercial or service relationship (Contractors, Suppliers, Partners, among others).

### **Zero Tolerance Plan Against Corruption**

**(PTCC):** Set of commitments and responsibilities of the Enel Group and assumed by Enel Colombia, its subsidiaries and affiliates, in the perimeter of Colombia, Costa Rica, Guatemala and Panama, in the performance of their activities, related to their commitment to fight corruption. The PTCC was approved by the respective governing body.

### **Compliance Officer or “Crime Prevention and Global Compliance Program Officer”:**

Person responsible for the supervision, operation and compliance of the Criminal Risk Prevention Model, for providing support for the implementation and supervision, and for carrying out and updating the corresponding controls of the Enel Global Compliance Program (EGCP), appointed by the respective governing body or Audit Committee.

Whenever this document refers to the Compliance Officer, it shall be understood that it also refers to the “Crime Prevention and Global Compliance Program Officer,” and vice versa. The Company’s Crime Prevention Officer is the Audit Manager of Enel Colombia, appointed by the respective governing body or Audit Committee.

### **Criminal Risk Prevention Model Process**

**Owner:** Person in charge of ensuring the correct setup, operation and reporting of relevant information associated with the Criminal Risk Prevention Model developed and implemented by Enel Colombia, its subsidiaries and affiliates, in the perimeter of Colombia, Costa Rica, Guatemala and Panama for an organizational unit.

**Sanction:** Consequence or effect of committing an infraction associated with the breach of the Criminal Risk Prevention Model or any of its associated controls.

**Internal Control System:** Set of policies and procedures that allow identifying, assessing, processing and recording economic-financial or non-economic-financial data in a consistent, reliable and timely manner over time.

# INTRODUCTION



The purpose of this document is to define the Criminal Risk Prevention Model of Enel Colombia in the perimeter of Colombia, Costa Rica, Guatemala and Panama, its subsidiaries and affiliates. In particular, the text details the activities, elements and bodies involved in the functioning and operation of the Model, in compliance with the provisions of the applicable regulations on crime prevention.

The Model takes into consideration the controls of the Internal Control System that exist and are necessary for the prevention of the crimes defined in the applicable regulations, as well as those contained in the Enel Global Compliance Program (EGCP).

This Model seeks to prevent the commission of crimes in the operations and business activities carried out by Enel Colombia in the perimeter of Colombia, Costa Rica, Guatemala and Panama, its subsidiaries and affiliates, mitigate the risks associated with criminal and administrative liability of the legal entity and the risks established in the Enel Global Compliance Program (EGCP).

# REGULATORY ENVIRONMENT



The regulatory environment of Enel Colombia, its subsidiaries and affiliates in Colombia, Costa Rica, Panama, Guatemala and Costa Rica consists of the following relevant regulatory bodies for each country:

## Colombia

- Political Constitution of the Republic of Colombia, 1991.
- Act 599 of 2000, "Whereby the Criminal Code is enacted." Colombian Criminal Code. The following punishable conducts stand out:
  - » Computer crimes and illicit data processing (Art. 269-A et seq.)
  - » Crimes against copyrights (Art. 270 et seq.)
  - » Crimes against the authority of attestation (Art. 273 et seq)
  - » Crimes against the economic and social order (Art. 297 et seq.)
  - » Crimes associated with private corruption and improper administration of society (Art. 250-A, 250-B, 258, 259 and 260).
  - » Crimes against authority of attestation (Art. 273 et seq.).
  - » Crimes against public security (Art. 340 et seq.)
  - » Crimes against the Public Administration (Art. 397 et seq.).
  - » Crimes against the financing of terrorism and organized crime groups and the administration of resources related to terrorist activities and organized crime (Art. 345)
  - » Agreements restricting freedom of competition (Art. 410 A)
  - » Influence peddling by a private individual (Art. 411 A)
  - » Illicit enrichment (Art. 412)
  - » Transnational bribery (Art. 433)
  - » Failure to report a crime (Art. 441)
  - » Bribery and bribery in criminal proceedings (Art. 444 and 444 A).
- Act 906 of 2004, "Whereby the Code of Criminal Procedure is enacted." Code of Criminal Procedure of Colombia.



- Act 1474 of 2011, “Whereby rules are issued to strengthen the mechanisms for the prevention, investigation and punishment of acts of corruption and the effectiveness of public management control,” or “Anti-Corruption Statute.”
- Act 1778 of 2016, “Whereby rules are issued to strengthen the mechanisms for the prevention, investigation and punishment of acts of corruption and the effectiveness of public management control.”
- Act 2014 of 2019, “Whereby sanctions are regulated for those convicted for corruption and crimes against public administration, as well as the administrative unilateral assignment of the contract for acts of corruption, and other provisions are enacted.”
- Act 2195 of 2022, “Whereby measures are adopted regarding transparency, prevention and fight against corruption, and other provisions are enacted.”
- Other relevant regulations:
  - » Act 412 of 1997, whereby the “Inter-American Convention against Corruption” is approved.
  - » Act 970 of 2005, whereby the “United Nations Convention against Corruption” is approved.
  - » Act 80 of 1993, “Whereby the General Statute of Public Procurement is enacted,” and Act 1150 of 2007, “Whereby measures for efficiency and transparency are introduced in Act 80 of 1993, and other general provisions on procurement with Public Resources are enacted.”

- » Act 1952 of 2019, “Whereby the General Disciplinary Code is issued,” and Act 2094 of 2021, “Whereby Act 1952 of 2019 is amended.”

## Costa Rica

- Political Constitution of the Republic of Costa Rica, 1949.
- Act No. 4573 of 1970, Criminal Code of Costa Rica. The following punishable conducts stand out:
  - » Computer and related crimes (Art. 229 bis, 229 Ter, 230 et seq.)
  - » Crimes against good faith in business (Art. 238 et seq.)
  - » Crimes against public trust (Art. 246 et seq.)
  - » Crimes against the Public Authority (Art. 311 et seq.)
  - » Crimes against the Administration of Justice (Art. 323 et seq.)
  - » Bribery (Art. 324)
  - » Crimes against the duties of the public function (Art. 338 et seq.)
  - » Corruption of Officials (Art. 347 et seq.)
  - » Illicit enrichment (Art. 353).
  - » Crimes against the authority of attestation (Art. 366 et seq.)
  - » Crimes against human rights (Art. 380 et seq.)

- » Environment (art. 406 et seq.).
- Act No. 7594 of 1996. Code of Criminal Procedure of Costa Rica.
- Act No. 7554 of 1995. Organic Law of the Environment.
- Act No. 8148 of 2001. Computer Crimes Act.
- Act No. 8422 of 2004. Act Against Corruption and Illicit Enrichment in the Public Service.
- Act No. 8557 of 2006. United Nations Convention against Corruption.
- Act No. 8630 of 2008. Modification of the Criminal Code and the Act Against Corruption and Illicit Enrichment.
- Act 8719 of 2009. Act for the Strengthening of Legislation against Terrorism.
- Act No. 9389 of 2016. Amendment to the Act against Corruption and Illicit Enrichment in the Public Service.
- Act No. 9450 of 2017. Convention on Combating Bribery of Foreign Public Officials in International Business Transactions of the Organization for Economic Cooperation and Development.
- Act No. 9699 of 2019. Act on Liability of Legal Entities on Domestic Bribery, Transnational Bribery and Other Offenses.
- Decree No. 42399 of 2020. Regulation to Title II of Act No. 9699 Liability of Legal Entities on Domestic Bribery, Transnational Bribery and Other Offenses called "Optional Model of Organization, Crime Prevention, Management and Control."

- Other relevant regulations:
  - » Act No. 6227 of 2002. General Ac of Public Administration.
  - » Act No. 8422 of 2004. Act against Corruption and Illicit Enrichment in the Public Service.

## Guatemala

- Political Constitution of the Republic of Guatemala, 1986.
- Decree No. 17-73 and its amendments. Criminal Code of Guatemala. The following punishable conducts stand out:
  - » Crimes against copyright, industrial property and computer crimes (Arts. 274 A-G, 275, 275 bis).
  - » Crimes against authority of attestation and national heritage (Arts. 313 - 327).
  - » Crimes against the national economy and the environment (Arts. 340 - 347E).
  - » Commercial discredit and unfair competition (Arts. 357 - 358)
  - » Crimes against the public administration committed by private individuals (Arts. 408- 410)
  - » Crimes against public administration (Art. 453 - 458).
- Decree number 68 of 1986. Act for the Protection and Improvement of the Environment.
- Decree number 101 of 1996. Forestry Act.



- Decree number 33 of 1998. Act on Copyrights and Related Rights.
- Decree number 57 of 2000. Industrial Property Act.
- Decree number 15 of 2001. Act approving the Inter-American Convention Against Corruption.
- Decree Number 67 of 2001. Act against the Laundering of Money or Other Assets.
- Decree number 58 of 2005. Act to Prevent and Suppress the Financing of Terrorism.
- Decree number 91 of 2005. Act approving the United Nations Convention Against Corruption.
- Decree number 31 of 2012. Act Against Corruption (amendments to the Criminal Code that include the Criminal Liability of Legal Entities).

- » Crimes against Computer Security (Arts. 289 - 292)
- » Crimes against Collective Security (Art. 293 - 295)
- » Crimes against Public Administration (Arts. 338 - 365)
- » Crimes in Public Procurement Acts (Arts. 364 - 365)
- » Crimes against the Authority of Attestation (Arts. 366-375)
- » Crimes against the Environment and Territorial Order (Arts. 399 - 424)

- Act No. 63 of 2008, Criminal Procedural Code of Panama.

- Act No. 39 of 2001, which amends and adds provisions to the Criminal Code and the Judicial Code and dictates norms for the prevention of corruption.

- Act 59 of 1999, which dictates Provisions against Administrative Corruption, such as the establishment of a declaration of assets of public servants and regulations on determining the unjustified enrichment of a public servant.

- Act No. 41 of 2000, which adds Chapter VI, Money Laundering, to the Criminal Code.

- Act No. 34 of 2015, which amends and adds articles to the Criminal Code.

- Act No. 70 of 2019, which amends the Criminal Code and dictates other provisions.

- Act No. 82 of 2013, which adopts measures against violence against women and amends the Criminal Code.

## Panamá

- Political Constitution of the Republic of Panama, 1972.
- Act No. 14 of 2007. Criminal Code of Panama. The following punishable conducts stand out:
  - » Crimes against Free Competition and the Rights of Consumers and Users (Arts. 238 et seq.)
  - » Money Laundering Crimes (Art. 254 et seq.)
  - » Crimes against intellectual and industrial property (Art. 262 - 273).
  - » Unfair Competition (Art. 283)

- Act No. 63 of 2015, which establishes measures for the protection of public parks and adds Art. 413-A to the Criminal Code.
- Act No. 133 of 2020, which amends the law for the protection of domestic animals and the Criminal Code.
- Act No. 70 of 2019, which amends the Criminal Code and dictates other provisions (Crimes against the National Treasury).
- International Sanctions issued by the United Nations, the European Union and the United States Government, including those administered by the Office of Foreign Assets Control of the United States Treasury Department, United Kingdom, Italy and Colombia.

## Internal Standards and International Guidelines

Enel Colombia, its subsidiaries and affiliates, in the perimeter of Colombia, Costa Rica, Guatemala, and Panama, shall apply the following Italian regulations as internal standards:

- Italian Decree 231 of 2001, Legal responsibility of the “governing bodies” with respect to illegal activities carried out for their interest or benefit.

In addition, the following international instruments on the prevention of corruption-related offenses are considered as guidelines:

- Foreign Corrupt Practices Act (FCPA).
- UK Bribery Act.
- OECD Guidelines.

## Common Provisions

The rules contained in the described regulatory environment will be applicable as long as they are in force. Any rule that regulates, complements, modifies, replaces or repeals them shall be deemed applicable from the time they are in force. However, for the purposes of this Model, each time a new provision of this nature comes into force that turns out to be applicable to the Companies of Enel Colombia, its subsidiaries and affiliates in the perimeter of Colombia, Costa Rica, Guatemala and Panama, the Model shall be updated according to its content.

Additionally, Enel Colombia, its subsidiaries and affiliates, in the perimeter of Colombia, Costa Rica, Guatemala, and Panama, have an Annex that explains the regulatory environment applicable in each country (See Annex 2, 3, 4 and 5. Applicable Regulatory Environment).

The actions of any employee or third party related to the company’s business or operation may have an impact on Enel Colombia, its subsidiaries and affiliates in the perimeter of Colombia, Costa Rica, Guatemala, and Panama, so these regulations are mandatory for any associate. The Model seeks to prevent not only crimes committed against the Company, but all those that may be committed for the illicit benefit of the Company.

The following sections describe in greater detail the aspects to be considered in corporate criminal liability.

## 2.1. ISO 37.001 ANTI-BRIBERY MANAGEMENT SYSTEM

ISO 37001 Anti-Bribery Management System (ABMS) is an international standard published by the International Organization for Standardization (ISO), which aims to guide the process of developing an Anti-Bribery Management System, assisting in the prevention, detection and remedy of corruption and bribery. To this end, the standard establishes a series of measures to be implemented by companies to build a culture of ethics, transparency, integrity and compliance.

The Company's Anti-Bribery Management System contemplates all processes, resources and counterparties according to the identification and evaluation of corruption and bribery risks. It includes all business lines, service units and staff, its subsidiaries and affiliates.

The Company's Anti-Bribery Management System requires and holds all employees accountable for the correct compliance with the guidelines and directives established in the associated internal and applicable external regulations.

### **Compliance Function of the Anti-Bribery Management System**

The Compliance Function has been established for Enel Colombia, its subsidiaries and affiliates in the perimeter of Colombia, Costa Rica, Guatemala and Panama, composed of a representative of the following units: Audit Management, Legal & Corporate Affairs Global and HSEQ. The Compliance Function is responsible for:

- Oversee the organization's design, implementation and operation of the Anti-Bribery Management System;
- Advise and guide staff on the Anti-Bribery Management System and bribery related issues;
- Ensure that the Anti-Bribery Management System is implemented in accordance with the requirements of ISO 37001-2016;
- Report on the performance of the Anti-Bribery Management System to Senior Management.

## 2.2. ENEL GLOBAL COMPLIANCE PROGRAM - EGCP - GLOBAL CORPORATE RESPONSIBILITY COMPLIANCE PROGRAM

The Enel Global Compliance Program - EGCP is a tool to reinforce the Enel Group's commitment to the best ethical, legal and professional standards in order to enhance and defend the Group's reputation.

Taking into account the most relevant international regulations, the Global Compliance Program aims to define general rules of conduct for employees, governing bodies and any other member of the management and control bodies, as well as ("Corporate Recipients") and for consultants and other contractors and, in general, third parties ("Third Parties" or "Other Recipients") (hereinafter the Corporate Recipients and the Other Recipients are collectively referred to as the "Recipients") who have been engaged or appointed respectively or who deal with or act on behalf of the non-Italian subsidiaries (the "Non-Italian Subsidiaries" or "NIS").

To this end, the EGCP defines a series of preventive measures aimed at criminal liability in the corporate sphere, reinforcing corporate governance and the internal control system; its objective is to support appropriate and legitimate conduct within the group (See Annex 1 -EGCP).

The Global Compliance Program is to be applied globally in all NIS, in accordance with their corporate governance structure and local legal context, as well as the cultural, social and economic differences in the countries where the NIS operate.

In case of contradictions between the EGCP and other private or technical standards, the EGCP standards shall prevail.

Where local laws and regulations contain specific requirements that differ from the provisions of the EGCP, those requirements shall prevail.

# THE CRIMINAL RISK PREVENTION MODEL



## 3.1. OBJECTIVES OF THE MODEL

The purpose of the Criminal Risk Prevention Model of Enel Colombia, its subsidiaries and affiliates, in the perimeter of Colombia, Costa Rica, Guatemala, and Panama, is to provide companies with a control system that prevents the commission of crimes within the company in compliance with the regulations applicable to these cases (see Annex 2, 3, 4 and 5 Applicable Regulatory Environment), according to which the adoption of an appropriate management and organization model may mitigate the criminal liability of legal entities with respect to such events.

The EGCP identifies the main rules of conduct applicable throughout the Enel Group and which are integrated with the following tools:

- The provisions set out in the Code of Ethics, which sets out the Enel Group's ethical principles that must be followed by all members of the Enel Group.
- The provisions set out in the Zero Tolerance Plan Against Corruption adopted by the Enel Group.

- The corporate governance provisions adopted by Group companies that reflect current legislation and international best practices.
- The internal control system adopted by Group companies.
- The provisions established in all local Compliance programs adopted by Group companies to comply with local legislation on corporate criminal liability and in all corresponding internal guidelines, policies or organizational documents.

The Model of the Companies of Enel Colombia, its subsidiaries and affiliates, in the perimeter of Colombia, Costa Rica, Guatemala, and Panama, involves a review, analysis and supervision process through various control activities, which are applied to the processes or activities that are exposed to the risks of committing the crimes defined in the reference regulations. The management of this Model corresponds to the Company's Compliance Officer, appointed by the respective governing body, which will be executed through the Audit Management.

The Model establishes the activities and procedures required as a mechanism to prevent and mitigate the risks of crimes to which the companies of Enel Colombia, its subsidiaries and affiliates, in the perimeter of Colombia, Costa Rica, Guatemala, and Panama, are exposed; and seeks to highlight the control and oversight role played by each employee, as appointed, and the commitment of all executives and third parties that have a relationship with the company in compliance with applicable laws and regulations.

This Model seeks to prevent the commission of crimes in the operations or for the benefit of the Companies of Enel Colombia, its subsidiaries and affiliates, in the perimeter of Colombia, Costa Rica, Guatemala, and Panama, and to mitigate the risks associated with the criminal liability of the legal

entity.

### 3.2. ELEMENTS OF THE MODEL

El Modelo se compone de cinco elementos que, combinados, garantizan un adecuado sistema de control para la prevención de riesgos penales:

- **Control environment:** It forms the basis of this internal control system, to which it provides discipline and structure. Integrity and compliance with sound ethical values, especially by the Companies' senior management, develop, comprise and set the standards of conduct for the Company as a whole. The Model is structured in accordance with this control environment, contemplating the general controls operating throughout the organization that are appropriate to mitigate criminal risk scenarios.
- **Control activities:** The objective of control activities is to prevent the risks identified in the different areas of the company from materializing. To this end, these controls must be executed and documented by the employees, and properly supervised by the process owners within their operational processes.

These control activities are defined in the regulatory documents and procedures that have been formalized for the Companies of Enel Colombia, its subsidiaries and affiliates, in the perimeter of Colombia, Costa Rica, Guatemala, and Panama; in turn, there is the Risk and Control Matrix of the Criminal Risk Prevention Model, which clearly describes the risk scenarios and controls according to each process. The Matrix makes it possible to identify the process and crime associated with each risk scenario, the existence of procedures that regulate the control activity, the frequency with which control activities must be carried out and the internal person responsible for compliance with the controls according to the process.

In these activities, employees assume a first-level control role, considering that they perform daily activities, processes and situations that may expose the company to a crime risk; therefore, in the performance of their duties, employees must have such knowledge of the Model and the controls as to guarantee the operation of the warning and risk mitigation measures when required.

Both employees and their process owners are responsible for the correct execution of the controls contained in the risk and control matrix of the Criminal Risk Prevention Model.

Additionally, as a second-level control, the role of the Internal Process owner of the Criminal Risk Prevention Model is established, who must ensure and certify that the controls carried out by the employees are performed in an adequate, timely and traceable manner and comply with the objectives of the Model as a control system for the prevention and mitigation of criminal risks.

- **Supervision and monitoring activities:** These are activities that must be carried out to ensure adequate compliance with the Model's control activities. This monitoring is carried out under a third-level control scheme by the audit area, which is responsible for testing, updating and follow-up activities of the Model's components and controls, as well as identifying unethical situations or those that may materialize in a criminal risk for the Company.

In addition, there is a Compliance Function for the companies of Enel Colombia, its subsidiaries and affiliates, in the perimeter of Colombia, Costa Rica, Guatemala, and Panama, under the responsibility of the Compliance Officer, who supervises, analyzes and resolves the incidents identified and reports to the governing bodies. It also provides the necessary support and advice to the areas of the company in the implementation of the Model.

- **Information and Communication:** These are internal control mechanisms that ensure that the information related to the Model is appropriate, current, timely, accurate and accessible, and that it is understood, incorporated and implemented correctly by the recipients.
- To ensure the correct implementation and execution of the Model, it is necessary that the information related to the Model flows adequately throughout the Organization, with prevention activities such as:
  - Outreach and training through regular programs involving all employees; coordinated by process owners and supported by the Audit and Compliance Function, Communications Management, People and Organization and Legal and Corporate Affairs of the Companies of Enel Colombia, its subsidiaries and affiliates, in the perimeter of Colombia, Costa Rica, Guatemala, and Panama.
  - Reporting to the compliance officer any incident, risky or sensitive operation, suspicion or violation of the Code of Ethics and/or the company's ethical regulations and suspicion or materialization of any act constituting a crime;
  - Disseminating the results of the identification and analysis of crime risks on such regular basis that would also allow identifying and implementing the control actions that must be developed to avoid their materialization;



- Preparing and reporting information flows by the areas that allow monitoring the quantities and execution of model controls in the company's processes;
- Reporting the results of the model control execution verification under the responsibility of each process of the Company.

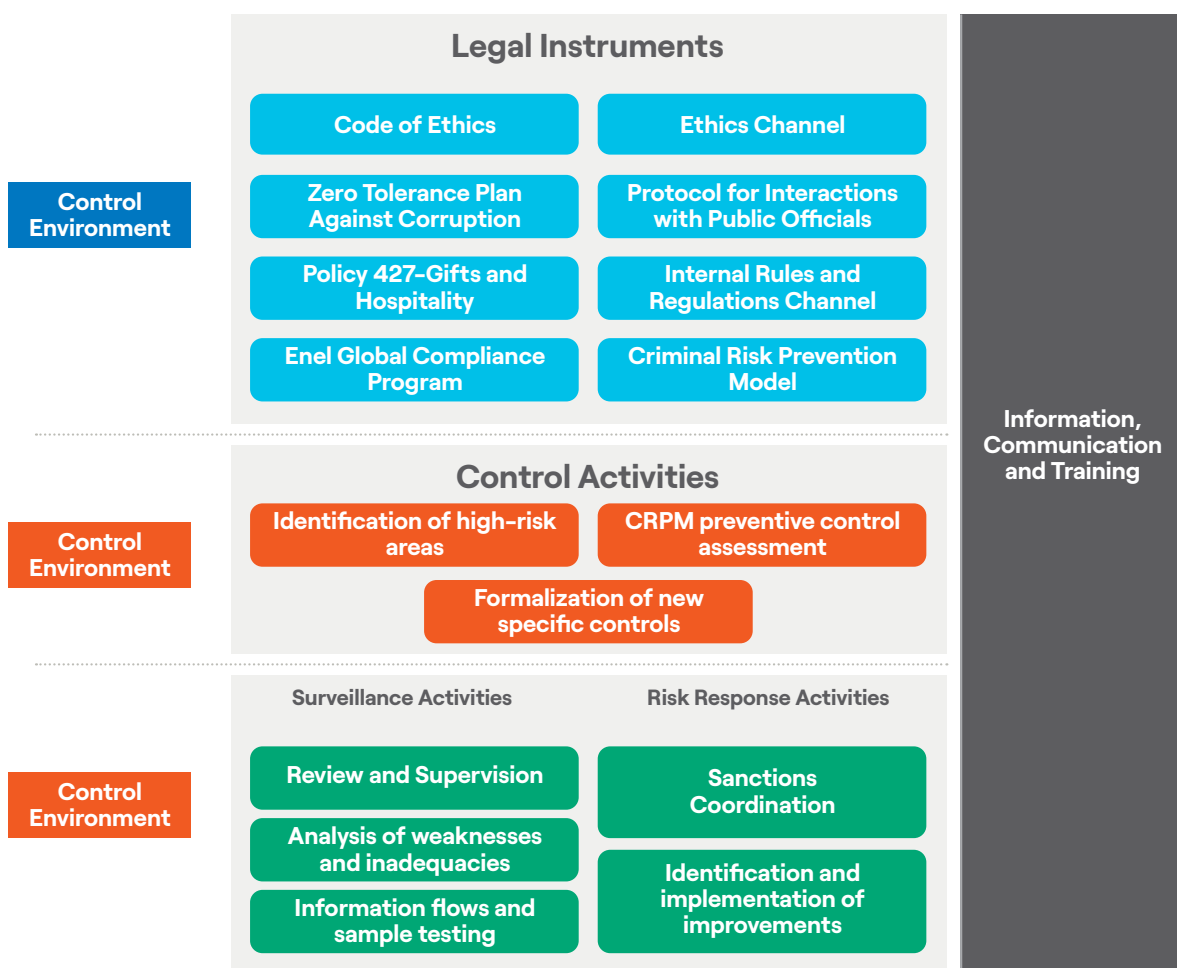
**Disciplinary system:**

Appropriate disciplinary measures will be applied by the competent functions in case of violation of any standard of conduct set out in the EGCP, in accordance with the sanctioning regime in force, under applicable rules or local compliance programs and without prejudice to the protection provided to employees provided by local legislation.

Disciplinary measures will be applied notwithstanding the outcome of any possible criminal proceedings conducted by the competent judicial authority.

The contractual documentation shall provide for appropriate sanctions, including but not limited to termination of the contract, in accordance with the legislation in force in case of violation by Third Parties of any of the provisions contained in the EGCP.

Schematically, the structure of the model can be represented as illustrated below:



### 3.3. MODEL DESIGN

#### 3.3.1. Scope of the Model

The Model is to be applied in all business lines, service units and staff of the companies in which Enel Colombia Companies have a majority shareholding, exercise control or have management responsibility, notwithstanding the legislation in force and the sovereign decisions of their governing bodies.

In companies wholly owned by Enel Colombia, the Model will be applied directly, subject to the approval of the corresponding corporate body of each legal entity. In the other companies, the representatives of the Companies in the governing bodies will promote its adoption and its incorporation into the company's internal rules and regulations.

#### 3.3.2. Control Environment

The Model has been structured based on the existing control environment in the Companies of Enel Colombia, its subsidiaries and affiliates, in the perimeter of Colombia, Costa Rica, Guatemala, and Panama, its subsidiaries and affiliates, considering the general principles and controls that operate throughout their organization, which are appropriate to mitigate criminal risk scenarios and that determine the values and ethical behaviors that define their standards of conduct.

The following are some of the general controls existing in the companies of Enel Colombia, its subsidiaries and affiliates in Colombia, Costa Rica, Guatemala and Panama, which shape and strengthen the control environment:

- Code of Ethics.
- Zero Tolerance Plan Against Corruption.
- Enel Global Compliance Program (EGCP).

- Anti-Bribery Management System
- Internal work regulations
- Whistleblowing Policy
- Counterparty analysis policy
- Authorization workflows.
- Powers of attorney system.
- Set of Corporate Governance rules in force and applicable.
- Conflicts of Interest Policy.
- Procedure for dealing with Politically Exposed Persons (PEP) and Persons Related to PEP.
- Protocol for dealing with public officials, control entities and authorities.
- Model of Trust and Value with Institutions
- Gifts and Hospitality Policy.
- Other relevant internal and procedural regulations of the Group.

#### 3.3.3. Control Activities

The criminal risks to which Enel Colombia, its subsidiaries and affiliates are exposed, in the perimeter of Colombia, Costa Rica, Guatemala, and Panama, are identified based on the activities they perform in the markets and sectors where they operate.

This identification process is carried out jointly by the company's Compliance Officer and the process owners, with the advice of legal experts and considering their activities and possible risk scenarios. Previously, the areas are informed about the applicable regulations in this area and the activities to implement the Model.

Subsequently, the activities or processes that present a greater exposure to the commission of the crimes that are defined in the regulations are identified in order to describe the risk scenarios.

After the initial definition of the Model, as new risk situations are identified in the different processes or activities, it will be updated to ensure its validity and continuous improvement.

The risks identified in the Model must be evaluated in order to identify the areas or processes that are most exposed to risk events. In this evaluation, the Compliance Officer is assisted by the process owners who have the authority to make decisions related to control strategies or other forms of risk management.

Risks are evaluated according to their impact (damage they may cause to the organization if they materialize) and their probability (frequency with which they may materialize).

Effective prevention helps to avoid misconduct as soon as it starts to occur. The objective of the controls is to avoid the materialization of risks identified in the Model and to prevent the occurrence of the crimes defined in the regulations, for the benefit of the companies of Enel Colombia, its subsidiaries and affiliates, in the perimeter of Colombia, Costa Rica, Guatemala, and Panama.

The Compliance Officer proposes the necessary controls to reasonably mitigate the risks identified by the company's process owners. These prevention controls are associated with the areas, processes or activities that are exposed to the commission of crimes defined and described in the regulations applicable to the companies of Enel Colombia, its subsidiaries and affiliates, in the perimeter of Colombia, Costa Rica, Guatemala, and Panama, and are the responsibility of each area.

To the extent that changes or control activities are identified in the processes, the Model, the risk and control matrix and other related components shall be updated to ensure continuous improvement.

### 3.3.4. Model Revision and Monitoring

The Model must be continuously monitored to check whether its design is adequate with respect to the requirements of the applicable regulations. This analysis must be repeated over time through the supervision of operations and specific periodic reviews, identifying possible failures and making the corresponding changes and improvements.

The Compliance Officer of the companies of Enel Colombia, its subsidiaries and affiliates in the perimeter of Colombia, Costa Rica, Guatemala, and Panama, performs a supervisory function of analysis and resolution of the incidents identified.

In general, the following actions will be carried out:

- Periodic evaluation of the design and effectiveness of existing control activities. Its scope and frequency will depend on the relevance of the associated risk and the effectiveness demonstrated by the controls.
- Process owners are internally responsible for the Criminal Risk Prevention Model and are responsible for following up and constantly monitoring the scope control activities of their process or area, as well as notifying changes or events that should be considered in the Company's control environment. In addition, they must ensure and certify that the applicable controls are in place.
- Employees assume the role of identifying and reporting risks or gaps in the model to the process owners, considering that they perform daily activities, processes and situations that may expose the company to a risk of crime.

- The members of the Internal Audit Management, through their audit work and other assigned functions, will inform the Compliance Officer about those issues that may be related to the Model, in order to promote the continuous improvement of the process.
- Reporting by the Compliance Officer to the Governing Body of any deficiencies that may be found, proposing response actions to solve them, assigning the personnel in charge and establishing mechanisms to follow up on them.

### 3.3.5. Evaluation of the Model

The evaluation of the Model is carried out through a continuous monitoring process that provides information on compliance with existing controls and their documentation. The evaluation allows sufficient confidence in the system and makes possible its evolution in the face of deficiencies and external or internal changes that may affect the company, in addition to constituting evidence before third parties regarding the validity and efficiency of the Model.

The Model is subject to two types of revisions:

- Revision of the design of the controls: the adequacy of the Model to reality must be reviewed periodically, so that it is always up to date. To this end, the information provided by all those involved in the process will be considered. The Compliance Officer, with the cooperation of the rest of the areas, must evaluate the design of the controls in relation to the mitigation of applicable crime risks.
- Revision of the operability of controls: the main transactions carried out at corporate level must be reviewed periodically. To this end, the Compliance Officer must supervise that the control has been carried out, during the period indicated in accordance with its description, by personnel with sufficient authority and

competence to ensure its effectiveness and that the necessary evidence has been kept to prove it.

To evaluate the design of the controls, it is necessary to consider whether or not they reasonably mitigate the materialization of the risk associated with each of them. Based on the evaluation performed, it may be estimated that the control:

- Reasonably mitigates the risk.
- Does not reasonably mitigate the risk.

If all controls are evaluated as “Does not reasonably mitigate the risk”, a mitigating control activity or associated action plans must be implemented. The design of the new control activity or action plans shall be defined by the Compliance Officer and coordinated in turn with the area that is responsible for mitigating the risk associated with the deficient control and effectively implementing the defined action plan. The Compliance Officer shall ensure its proper implementation.

### 3.3.6. Response activities for identified deficiencies.

Specific response activities will be carried out to analyze the cases that have been identified in relation to the crimes defined in the applicable regulations, as well as to propose clarifications and disciplinary measures for those who fail to comply with the Model.

The specific response activities of the Model are as follows:

- **Implementation of action plans by the area responsible for the deficiency.**

The process owners will lead the actions required within their areas to ensure compliance with the control activities and the responsibilities of the employees and to mitigate the risks of committing crimes.

- **Investigation of identified cases of possible deficiencies in the model.**

The Compliance Officer must lead and coordinate, with the applicable areas of the company, the investigations that, where appropriate, may arise from possible deficiencies or non-compliance with the Model. The Compliance Officer will have the advice and cooperation of the Legal and Corporate Affairs Management, and in the event that legal proceedings are initiated, any action in progress that could conflict with such circumstance will be suspended.

- **Records and follow-up of identified cases.**

The Compliance Officer shall keep an updated record of the reports, their status (ongoing or closed) and the disciplinary measures that have been applied in cases of non-compliance with the Model or the regulations applicable to the companies of Enel Colombia, its subsidiaries and affiliates, in the perimeter of Colombia, Costa Rica, Guatemala and Panama.

The Compliance Officer shall also periodically follow up on the reports recorded by means of the following activities:

- Validate the integrity of the complaint records.
- Analyze the status of the reports (initiated, under investigation, in process of resolution, closed).
- Analyze recurrent scenarios, i.e., repetition of the same type of complaint, person and/or area involved, type of complaint, etc.
- Analyze the age of the complaints, in order to manage their rapid resolution.

### 3.3.7. Continuous improvement of the Model

As a result of the investigation and resolution of the non-compliances identified in the Model, a review of the control activities violated will be carried out periodically, in order to implement improvements in their design or design new control activities.

The Compliance Officer is responsible for evaluating the risks and ineffective control activities in each of the resolved cases, in order to determine the need to establish:

- New control activities.
- Improvements in the control activities that do not work effectively or whose design is not adequate.
- New risk scenarios

The Compliance Officer is also responsible for advising the areas involved in the definition and implementation of the corrective measures to be adopted.

In addition, the Compliance Officer will lead and coordinate the updating of the Prevention Model in the event of changes in external regulations, new requirements applicable to the Model, or improvements that are identified and that contribute to the effectiveness and operation of the Model. For these activities, the Crime Prevention Officer has the collaboration of the Legal and Corporate Affairs Management, and other Management Departments as necessary.

The Compliance Officer shall present the modifications to this document to the respective management body.

### 3.4. DISSEMINATION, INFORMATION AND COMMUNICATION

For the control environment and the activities of the Model to work, relevant information, both external and internal, must flow correctly throughout the organization. To this end, the following initiatives will be undertaken:

- Effective communication of compliance programs and the commitment of the Company's management to ethical behavior.
- Strengthening knowledge in this area, through training and dissemination of the Code of Ethics (CE) and the Zero Tolerance Plan Against Corruption (PTCC), the EGCP and other relevant procedures and/or protocols so that all employees are aware of them and are committed to complying with them.
- Implementation of internal control mechanisms that ensure, with reasonable assurance, that information is appropriate, current, timely, accurate and accessible. Also, application of control mechanisms that make it possible to evaluate that the contents and procedures adopted by the Company have been incorporated by their recipients and adequately implemented.

The Model must be duly disseminated throughout the organization in order to ensure its adequate knowledge and understanding and guarantee its compliance.

The Compliance Officer is responsible for promoting the necessary initiatives for the proper dissemination of the Model, the risk areas and the general principles of conduct, in addition to promoting appropriate training in ethical matters. The above, with the support and in coordination with

the Communications and People and Organization Management.

The companies of Enel Colombia, its subsidiaries and affiliates, in the perimeter of Colombia, Costa Rica, Guatemala, and Panama, have a Whistleblower Channel (Ethics Channel), an outsourced platform through which employees, both internal and external, as well as any member of a stakeholder group, can report possible infractions or violations of the Code of Ethics, the Zero Tolerance Plan Against Corruption, the Enel Global Compliance Program and the Criminal Risk Prevention Model. (See section Whistleblowing and Complaints). The Ethics Channel is accessible at:

<https://secure.ethicspoint.eu/domain/media/es/gui/102504/index.html>

Complaints can also be filed by sending a letter to the Compliance Officer at the company's headquarters.

In addition, complaints may also be filed by e-mail, by telephone or in person to the Compliance Officer of the companies of the Enel Group, its subsidiaries and affiliates, who in all cases will record them for monitoring and control. Company employees who identify a possible breach of the provisions of the Code of Ethics or the Criminal Risk Prevention Model must act in accordance with the procedures developed for this purpose. In no case shall they act individually to try to resolve the possible incident, instead they must report it to the Audit Management or through the whistleblower channel (Ethics Channel). The Compliance Officer, together with the different responsible areas, will evaluate the convenience of communicating disciplinary measures to the entire organization, in order to underline the firm commitment of employees and third parties involved to respect the ethical principles and values that have been made public.

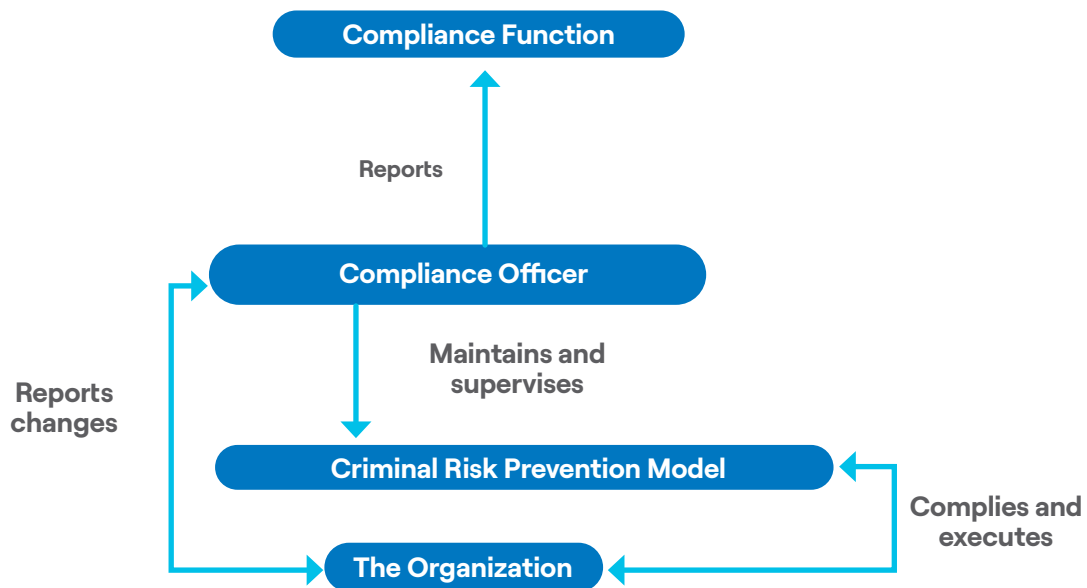


# RESPONSIBILITIES IN RELATION TO THE MODEL



In order to operate effectively and ensure its correct execution, revision, supervision and updating, the Model requires functions and officers to provide it with adequate support.

The following chart reflects the outline that has been defined in relation to these needs and the responsibilities that derive from compliance with the Model.



*Outline of the operation of the Criminal Risk Prevention Model*

The responsibilities of each of these bodies in the different stages of the process (design, operation, supervision and reporting) are defined below.

### **Respective Management Body**

Regarding the issues contemplated in the Model, the respective management body, through the Audit Committee, or whoever it may define, is responsible for supervising the responsibilities assigned to the Compliance Officer, in particular everything related to:

- The work plan in terms of supervision of the Model.
- The results of compliance activities.
- The maintenance of the Model and the adequate coverage of criminal risks.
- The adequacy of the resources (human, technical, economic, etc.) allocated for compliance with the Model.
- Non-compliance with the Model's controls.
- Monitoring conduct in the risk areas by means of appropriate analyses.
- Ensure the adoption of all disciplinary measures that have been agreed upon to sanction cases of non-compliance with the established rules.
- Ensure the proper functioning and dissemination of the Prevention Model, as well as coordinate and direct the supervision of compliance with the controls set forth therein.
- Report to the governing bodies (Audit Committee) periodically, at least every six months, on all relevant activities carried out in relation to the Model, as well as on any violations of which it becomes aware.
- Propose to the Audit Committee the review of the company's most relevant policies and procedures regarding the prevention of criminal risks.
- Assess whether the ethical regulations and other internal protocols and manuals (EC, PTCC, etc.) are adequate and ensure their dissemination and compliance.
- Directing and coordinating the activities carried out in this area in the different areas of the companies of Enel Colombia, its subsidiaries and affiliates, in the perimeter of Colombia, Costa Rica, Guatemala, and Panama.

In order to guarantee a specialized and continuous monitoring of the activities related to the Model, the Audit Committee, or whoever the management body may determine, is supported by the Compliance Officer, from whom it will receive proposals for action.

### **Compliance Officer**

The Compliance Officer is responsible for:

- Ensuring adequate dissemination of the risk areas and of the conduct to be applied within the scope of each company.

### **Legal and Corporate Affairs Management**

The Legal and Corporate Affairs Management is responsible for monitoring the legislative changes applicable to the design or maintenance of the Model, informing the Compliance Officer in a timely manner of any new developments identified.

If due to causes derived from non-compliance with the Criminal Risk Prevention Model of the companies of Enel Colombia, its subsidiaries and affiliates, in the perimeter of Colombia, Costa Rica, Guatemala and Panama, the companies are implicated in a proceeding involving criminal, civil, labor or administrative liability, it shall be the responsibility of the Legal and Corporate Affairs Management to manage their representation and defense.

Additionally, the Legal and Corporate Affairs Management provides advice and guidance both to the Compliance Officer and to the required functions in the definition and application of guidelines in accordance with the applicable regulations.

### **Internal Process Owners for the Criminal Risk Prevention Model**

To ensure the correct adoption, implementation and execution of the Model, process owners are appointed as the second level of internal control for the Criminal Risk Prevention Model, they play a supervisory role and are responsible for the constant follow-up and monitoring of the scope control activities of their process or area. They must ensure and certify that the applicable controls within their scope of action are performed properly, timely, traceable and comply with the objectives of the Criminal Risk Prevention Model (CRPM) and the Anti-Bribery Management System, as a control system for the prevention and mitigation of risks.

It is also their responsibility to notify the compliance officer of changes or events that should be considered in the Company's control environment, regarding the Criminal Risk Prevention Model (CRPM) and the Anti-Bribery Management System.

### **The rest of the Organization**

The entire organization of the company is responsible for the implementation of the Model. To this end, employees must:

- Execute the controls provided in the Model.
- Maintain adequate evidence of their correct execution.
- Identify and communicate to the Compliance Officer new risk scenarios.
- Inform the Compliance Officer cases of incorrect execution of controls and/or violations of ethical regulations.

It should be remembered that stakeholders (employees, suppliers, among others) who report or inform in good faith will always be protected by the respective management body, Senior Management and Audit Management against any type of retaliation. Absolute confidentiality will be ensured in all cases regarding the identity of the persons who report or inform, without prejudice to compliance with the legal obligations that may apply, and the protection of the corresponding rights in favor of the companies and persons who may be accused unjustly or in bad faith.

Failure to comply with the obligation to inform the Compliance Officer shall be sanctioned in accordance with the provisions of the Company's disciplinary system.

# INFORMATION FLOWS AND REPORTING



## 5.1. REPORTING TO THE COMPLIANCE FUNCTION

The Compliance Officer must be informed of everything related to the implementation of the Model in the risk areas, of any suspected violation or infringement of the principles contained in the Model, as well as any unethical behavior, suspicion or materialization of events constituting crimes that could give rise to risks of criminal charges against the company or that entail criminal liability of the legal entity.

## 5.2. REPORTING TO GOVERNING BODIES

The Compliance Officer of the Companies of Enel Colombia, its subsidiaries and affiliates, in the perimeter of Colombia, Costa Rica, Guatemala and Panama, shall provide at least once a year to the Audit Committee, or to whomever the management body determines, information on the review plan of the Model, as well as on the activity of implementation, revision and supervision of the Model and everything related to its due compliance.

# DISCIPLINARY SYSTEM

The competent functions shall apply appropriate disciplinary measures in case of violation of any standard of conduct set out in the EGCP, in accordance with the sanctioning regime in force, under applicable rules or local compliance programs and without prejudice to the protection provided to employees under local law.

Disciplinary measures will be applied notwithstanding the outcome of any possible criminal proceedings conducted by the competent judicial authority.

# REGULAR REVISIONS – UPDATING THE MODEL

As stated in section 3.3.4. “Model Revision and Monitoring”, the Model will be subject to annual reviews in order to evaluate its design and effectiveness, as well as to ensure that it is kept up to date.

As a result of these reviews, the Model may be updated, modified or expanded. Changes made to the documents governing the Model will be proposed by the Compliance Officer to the Audit Committee.



The contractual documentation shall provide for appropriate sanctions, including but not limited to termination of the contract, in accordance with the legislation in force in case of violation by Third Parties of any of the provisions contained in the EGCP.



In the event of any modifications or extensions to the Model, the Compliance Officer shall immediately inform all its subsidiaries and affiliates that have adopted its Prevention Model.

# CRIMINAL RISK PREVENTION MODEL, CODE OF ETHICS AND ZERO TOLERANCE PLAN AGAINST CORRUPTION



The Model's standards of conduct are in line with those contained in the Code of Ethics and the Zero Tolerance Plan Against Corruption. However, these documents have different purposes and scopes of application:

- The Code of Ethics and the Zero Tolerance Plan Against Corruption are instruments specific to Enel Group Companies that aim to collect the corporate ontological principles. All employees undertake to comply with them.
- The Model responds to specific regulations that are applicable to the Enel Group Companies and is intended to prevent crimes and criminal offenses that may be committed apparently for the benefit of the company and imply criminal liability for it, as provided for in the applicable legislation in these cases. The Model also follows the guidelines established in the Enel Global Compliance Program (EGCP), which contemplates a more extensive catalog of crimes than those required by local legislation.



# WHISTLEBLOWING AND COMPLAINTS



As part of the supervision of the Model, it is the duty and obligation of all employees and third parties related to Enel Colombia, its subsidiaries and affiliates in the perimeter of Colombia, Costa Rica, Guatemala and Panama to report situations or events that are considered unethical and/or that may materialize in a crime or illegal act. Therefore, the company has set up a whistleblower channel that is intended to be a mechanism for reporting any complaint related to an irregularity or breach of internal policies, irregular conduct, or lack of compliance with the Code of Ethics, which can be consolidated in the possible commission of a crime or illegal act in accordance with the regulations governing the operations of the companies of Enel Colombia, its subsidiaries and affiliates, in the perimeter of Colombia, Costa Rica, Guatemala, and Panama.

The whistleblower channel, a platform managed by a specialized provider external to the company, is available through the intranet for internal employees, or on the internet for access by all stakeholders of the companies of Enel Colombia, its subsidiaries and affiliates, in the perimeter of Colombia, Costa Rica, Guatemala, and Panama. The Ethics Channel is accessible at:

<https://secure.ethicspoint.eu/domain/media/es/gui/102504/index.html>

In addition, complaints may also be filed by e-mail, telephone or in person to the Compliance Officer, who in any case will register them for monitoring and control. Employees of Enel Colombia, its subsidiaries and affiliates, in the perimeter of Colombia, Costa Rica, Guatemala, and Panama, who identify a possible breach of the provisions of the Code of Ethics or the Criminal Risk Prevention

Model must act in accordance with the procedures developed for this purpose. In no case shall they act individually to try to resolve the possible incident, instead they must communicate it to the Audit Management or through the whistleblower channel (ethics channel).

The treatment of the complaints and the coordination of the investigation is carried out by the Audit function of the company, according to the whistleblowing policy that is governed under standards of confidentiality, dignity of persons and non-retaliation to whistleblowers in order to safeguard the individual who filed the complaint and the identity and integrity of those reported.

Each complaint must be analyzed and investigated in order to determine whether or not it is related to activities outside the standards of behavior of the Code of Ethics or with possible conduct associated with crimes according to the applicable legislation, in order to validate the existence of elements that prove the reported events.

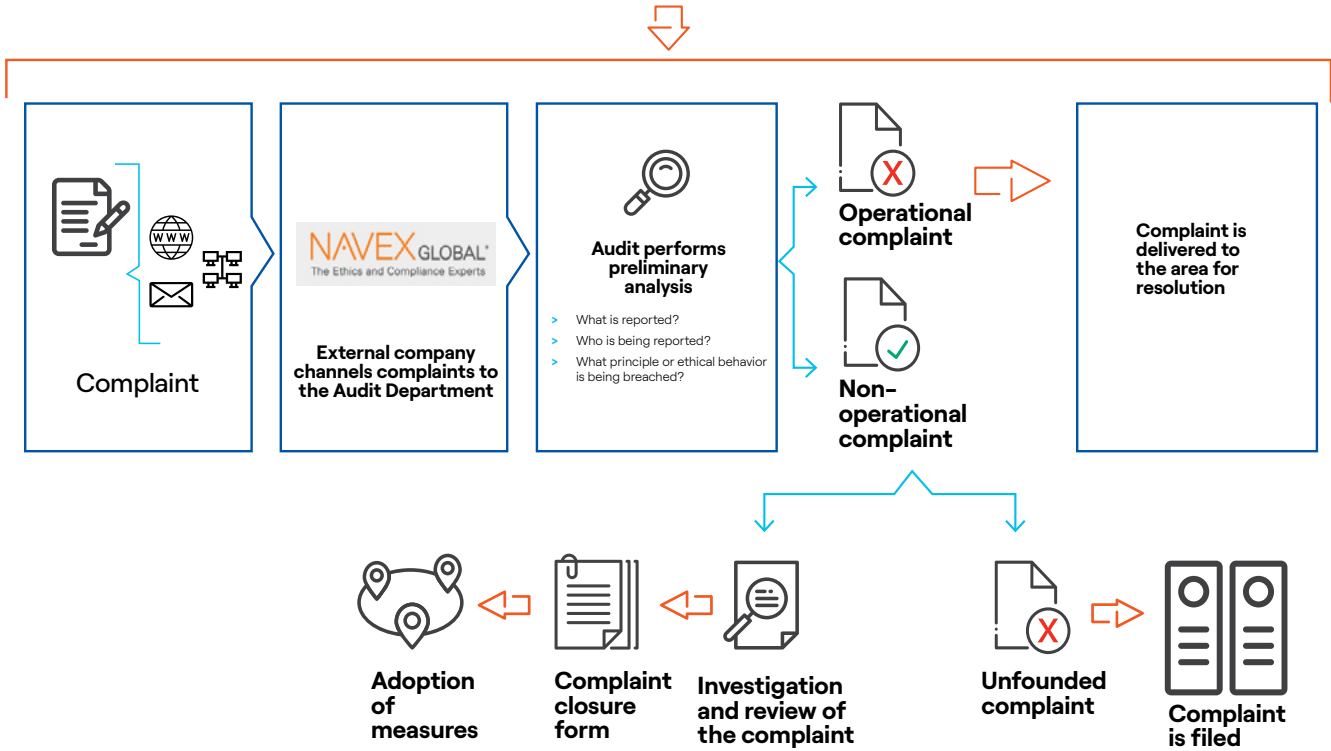
In case of reasonable confirmation of the reported events, these are communicated at least semi-annually to the respective management body through the Audit Committee.

The Enel Group has a Whistleblowing Policy, which was created with the spirit of regulating the process of receiving, analyzing and managing complaints regarding conduct and practices with a possible violation of the Enel Compliance Programs.

## Política No. 107 "Whistleblowing"

### THE CHANNELS ENSURE

- Guarantee of anonymity
- Confidentiality protection
- Security
- Protection against retaliation



*Operation of the Ethics Channel*

# 10

## PROCEDURES AND CONTROLS

The Companies of Enel Colombia, its subsidiaries and affiliates, in the perimeter of Colombia, Costa Rica, Guatemala and Panama, taking into account the scope of the Model and the objective of continuously reinforcing the control and supervision actions by the employees and process owners, have developed procedures or a set of guidelines for those issues that are sensitive to the risk of committing a crime, which are mandatory for the employees and third parties that are related to the Company.

Below are the procedures formalized in the Company:

### **Due Diligence**

An adequate Due Diligence process shall be carried out on potential business partners, suppliers, contractors and employees with whom a commercial, labor or other relationship is planned with Enel Colombia, its subsidiaries and affiliates, in the perimeter of Colombia, Costa Rica, Guatemala and Panama, analyzing not only commercial and financial aspects, but also relationships or links with cri-

minal or unethical acts that are red flags to stop or prevent any relationship with these third parties. To this end, the following procedures must be taken into account:

**Counterparty analysis:** Establishes parameters that allow guaranteeing the protection of the property, assets and intangible value of the companies of Enel Colombia, its subsidiaries and affiliates, in the perimeter of Colombia, Costa Rica, Guatemala, and Panama, in order to mitigate and reduce the “counterparty risk”, analyzing in detail the commercial relationships or agreements that may incur reputational or legal risks. The counterparty analysis will be requested and carried out whenever the activity requires it, aligned to prevent and detect the existence of negative elements in official sources (e.g., commercial registry, criminal records, among others) or in public information sources.

As part of the analysis, a background check of the individual or legal entity, partners, or owners of the company will be carried out to verify any situation that may be configured as an unethical act and/or that contradicts the applicable regulations.

Supplier rating: Establishes the guidelines for evaluating legal, integrity, economic, financial, technical and sustainability aspects necessary for the contractual relationships with suppliers. This process contemplates the continuous monitoring of suppliers' compliance with the requirements through information available in external databases; if any of the requirements are not complied with during the validity of the rating, the committee in charge evaluates the suspension or exclusion of the supplier.

### **Contractual Clauses**

In accordance with the regulations applied and as a basis for the implementation of the Criminal Risk Prevention Model, all contracts with third parties must contain clauses, obligations and prohibitions related to the applicable ethics and crime prevention regulations. These clauses must be clear and fully known and understood by the third party from the beginning of the contractual relationship and during the execution of the services or contract.

For the companies of Enel Colombia, its subsidiaries and affiliates, in the perimeter of Colombia, Costa Rica, Guatemala, and Panama, these clauses are contained in the General Contract Conditions - GCC, as well as in specific declarations or clauses, which are part of all contracts for the acquisition of goods and services or donations made with third parties, and are a fundamental part of the contractual document that attests to the good or service to be provided to the company, which must adhere to what is indicated therein and for no reason commit an action that may be considered as a risk of crime or offense for the benefit or not of the Company.

For other third parties that establish a commercial, contractual, partnership or any other type of relationship with Enel Colombia Companies, its subsidiaries and affiliates, in the perimeter of Colombia, Costa Rica, Guatemala and Panama, the clauses will be incorporated in the contractual documents or annexes.

### **Gifts and Hospitality**

Clear principles of action are established that must be followed by employees of Enel Colombia, its subsidiaries and affiliates in the perimeter of Colombia, Costa Rica, Guatemala and Panama, for all matters related to the offering and acceptance of gifts, presents and favors, provided that they are in the context of acts of business courtesy/promotion, and that they do not compromise the integrity of any of the parties or are interpreted by an impartial observer as a way to create an obligation of gratitude or acquisition of advantages improperly. These principles are in accordance with the Code of Ethics, the Zero Tolerance Plan Against Corruption, the Enel Global Compliance Program (EGCP) and the Company's Criminal Risk Prevention Model.

### **Institutional Relations**

Protocol of action in dealing with public officials and control entities: Establishes principles of action that guide the actions of those who have dealings with public officials and control entities, and serve to prevent the commission of illicit practices, ensuring transparency and correctness in relations. These principles revolve around aspects such as representation, separation of functions, traceability, development of procedures and steps and reporting processes.

Model of Trust and Value with Institutions: Establishes the criteria for the appropriate relationship with institutional stakeholders, in order to ensure the building of trust and value with institutions. To achieve this objective, all interaction within this area must be governed in accordance with the classification of levels and participants established to serve institutional audiences according to their characteristics.

In addition, in order to ensure transparency and legality in the actions of the Organization and its representatives, the interactions carried out in the institutional sphere must guarantee appropriate records of meetings and/or encounters, of the persons contacted, and of the documentation exchanged. The principles of confidentiality and information security must be complied with.

### **Conflict of interest**

As part of the actions that individually or jointly may be part of the crime risk scenarios, the companies of Enel Colombia, its subsidiaries and affiliates, in the perimeter of Colombia, Costa Rica, Guatemala, and Panama, have regulated an internal ethical regulation in terms of reporting, analysis and definition of situations that may generate conflicts of interest.

From the selection process and during the performance of their duties, employees must declare any situation that could generate a conflict of interest, even in appearance. Failure to comply with

the regulatory provisions related to the treatment of conflict of interest will be considered a serious misconduct that will have disciplinary effects.

Any report of a conflict of interest or situation that could generate it must be declared to the Company's People and Organization Management, Trade Union Relations Colombia & Central America Unit, through the channels established by said unit.

In the case of employees, contractors and suppliers, each time a contractual or service provision relationship is initiated or renewed, the reporting of conflict of interest shall be requested in the formats established in accordance with the internal procedures of the companies of Enel Colombia, its subsidiaries and affiliates, in the perimeter of Colombia, Costa Rica, Guatemala and Panama.

# ANEXO 2

## REGULATORY ENVIRONMENT APPLICABLE TO COLOMBIA

### 2. REGULATORY ENVIRONMENT APPLICABLE TO COLOMBIA

#### 2.1. OVERVIEW

This chapter includes the Colombian criminal and administrative provisions that are comparable to the offenses described in Italian Decree 231 of 2001 and that are part of the Criminal Risk Prevention Model. Any rule that regulates, adds, modifies, changes, replaces or repeals the regulation contained herein shall be part of the country's regulatory environment.

#### 2.2. LIABILITY OF LEGAL ENTITIES IN COLOMBIA

In Colombia, current regulations do not provide for criminal liability of legal entities. However, legal ENTITIES shall be administratively liable for acts of corruption, as provided in Act 1474 of 2011 "Anti-Corruption Statute" and Act 1778 of 2016 "Whereby rules are issued on the liability of Legal Entities for acts of Transnational Corruption and other provisions are issued in the fight against corruption" (as amended by Act 2195 of 2022).

#### 2.3. CRIMES PROVIDED FOR IN THE COLOMBIAN CRIMINAL CODE (ACT 599 OF 2000)

##### 2.3.1. CRIMES AGAINST INDIVIDUAL LIBERTY AND OTHER GUARANTEES

###### **VIOLATION OF PRIVACY, CONFIDENTIALITY AND INTERCEPTION OF COMMUNICATIONS.**

**ARTICLE 192. UNLAWFUL VIOLATION OF COMMUNICATIONS.** Whoever unlawfully removes, conceals, misplaces, destroys, intercepts, controls or impedes a private communication addressed to another person, or unduly learns of its content, shall incur imprisonment of sixteen (16) to fifty-four (54) months, provided that the conduct does not constitute a crime punishable by a heavier penalty.

If the perpetrator of the conduct reveals the content of the communication, or uses it for his or her own or another's benefit or to the detriment of another, the penalty shall be imprisonment of thirty-two (32) to seventy-two (72) months.

**ARTICLE 193. OFFERING, SALE OR PURCHASE OF AN INSTRUMENT CAPABLE OF INTERCEPTING PRIVATE COMMUNICATION BETWEEN PERSONS.** Whoever, without the permission of the competent authority, offers, sells or buys instruments capable of intercepting private communication between persons, shall be fined, provided that the conduct does not constitute a crime punishable by a heavier penalty.



**ARTICLE 194. DISCLOSURE AND USE OF CONFIDENTIAL DOCUMENTS.** Whoever, for his or her own or another's benefit or to the detriment of another, discloses or uses the contents of a document that must remain confidential, shall be fined, provided that the conduct does not constitute a crime punishable by a heavier penalty.

**ARTICLE 196. UNLAWFUL VIOLATION OF COMMUNICATIONS OR CORRESPONDENCE OF OFFICIAL NATURE.** Whoever unlawfully subtracts, conceals, misplaces, destroys, intercepts, controls or impedes communication or correspondence of an official nature, shall incur a prison term of forty-eight (48) to one hundred eight (108) months.

The penalty described in the preceding paragraph shall be increased by up to one third when the communication or correspondence is destined or sent to the Judicial Branch or to the control or security agencies of the State.

**ARTICLE 197. UNLAWFUL USE OF COMMUNICATIONS NETWORKS.** Whoever for illicit purposes possesses or makes use of terminal equipment of communications networks or any electronic means designed or adapted to emit or receive signals, shall incur, for this conduct alone, imprisonment of four (4) to eight (8) years.

The penalty shall be doubled when the conduct described in the preceding paragraph is carried out for terrorist purposes.

#### **CRIMES AGAINST FREEDOM OF LABOR AND ASSOCIATION.**

**ARTICLE 198. VIOLATION OF FREEDOM OF LABOR.** Whoever by means of violence or deceitful maneuvers achieves the withdrawal of workers or employees from the establishments where they work, or by the same means disturbs or impedes the free exercise of the activity of any person, shall incur a fine.

If because of the conduct described in the preceding paragraph the collective suspension or cessation of work occurs, the penalty shall be increased by up to one third, without exceeding ten (10) fine units.

**ARTICLE 199. SABOTAGE.** Whoever with the purpose of suspending or paralyzing the work destroys, renders useless, makes disappear or in any other way damages tools, data bases, software, installations, equipment or raw materials, shall incur a prison term of sixteen (16) to one hundred eight (108) months and a fine of six point sixty-six (6.66) to thirty (30) legal monthly minimum wages in force, provided that the conduct does not constitute a crime punishable by a heavier penalty.

If as a consequence of the conduct described in the preceding paragraph the collective suspension or cessation of work occurs, the penalty shall be increased by up to one third.

**ARTICLE 200. VIOLATION OF THE RIGHTS OF ASSEMBLY AND ASSOCIATION.** Whoever impedes or disturbs a lawful assembly or the exercise of the rights granted by the labor laws or retaliates on the occasion of a strike, lawful assembly or association, shall incur a prison sentence of one (1) to two (2) years and a fine of one hundred (100) to three hundred (300) legal monthly minimum wages in force.

The same penalty shall be incurred by whoever enters into collective agreements in which, as a whole, better conditions are granted to non-unionized workers, with respect to those conditions agreed upon in collective bargaining agreements with unionized workers of the same company.

The prison sentence shall be from three (3) to five (5) years and a fine of three hundred (300) to five hundred (500) legal monthly minimum wages in force if the conduct described in the first paragraph is committed:

1. By putting the employee in a situation of defenselessness or that endangers his or her personal integrity.
2. The conduct is committed against a disabled person, a person suffering from a serious illness or a pregnant woman.
3. By threatening to cause death, personal injury, damage to another's property or to the employee or his or her ascendants, descendants, spouse, permanent partner, sibling, adopter or adoptee, or relative up to the second degree of affinity.
4. By deceiving the employee.

## 2.3.2. CRIMES AGAINST FINANCIAL ASSETS

### FRAUD

**ARTICLE 246. FRAUD.** Whoever obtains illicit profit for him or herself or for a third party, to the detriment of others, inducing or maintaining another in error by means of artifices or deception, shall incur a prison term of thirty-two (32) to one hundred forty-four (144) months and a fine of sixty-six point sixty-six (66.66) to one thousand five hundred (1,500) legal monthly minimum wages in force.

The same penalty shall be incurred by whoever in a lottery, raffle or game, obtains profit for him or herself or for others using any fraudulent means to ensure a certain result.

The penalty shall be imprisonment of sixteen (16) to thirty-six (36) months and a fine of up to fifteen (15) legal monthly minimum wages in force, when the amount does not exceed ten (10) legal monthly minimum wages in force.

**ARTICLE 247. AGGRAVATING CIRCUMSTANCES.** The penalty provided for in the preceding article shall be from sixty-four (64) to one hundred forty-four (144) months when:

1. The fraudulent means used is related to social interest housing.
2. The illicit benefit is obtained by whoever, without being a participant in a crime of kidnapping or extortion, induces or maintains another in error on the occasion thereof.

3. Real or simulated influences are invoked with the pretext or for the purpose of obtaining from a public servant a benefit in a matter that he or she is aware of or should be aware of.
4. The conduct is related to insurance contracts or motor vehicle transactions.
5. The conduct is related to assets belonging to companies or institutions in which the State has the total or major part, or received in any capacity from the State.
6. The conduct is related to the General System of Comprehensive Social Security.

## **BREACH OF TRUST**

**ARTICLE 250-A. PRIVATE CORRUPTION.** Whoever directly or through an intermediary promises, offers or grants to directors, administrators, employees or advisors of a corporation, association or foundation a gift or any unjustified benefit to favor him or her or a third party, to the detriment of the former, shall be punished with imprisonment of four (4) to eight (8) years and a fine of ten (10) to one thousand (1,000) legal monthly minimum wages in force.

With the same penalties shall be punished the director, administrator, employee or advisor of a company, association or foundation who, by him or herself or through an interposed person, receives, requests or accepts a gift or any unjustified benefit, to the detriment of such company, association or foundation.

When the conduct carried out produces economic damage to the detriment of the corporation, association or foundation, the penalty shall be from six (6) to ten (10) years.

**ARTICLE 250-B. DISLOYAL ADMINISTRATION.** The de facto or de jure administrator, or partner of any corporation incorporated or in formation, director, employee or advisor, who for his or her own or another's benefit, with abuse of the functions inherent to his or her position, fraudulently disposes of the assets of the corporation or contracts obligations to be paid by it, directly causing an economically assessable damage to its partners, shall incur a prison term of four (4) to eight (8) years and a fine of ten (10) to one thousand (1,000) legal monthly minimum wages in force.

## **FRAUDS**

**ARTICLE 258. UNDUE USE OF PRIVILEGED INFORMATION.** Whoever as an employee, advisor, director or member of a board or administrative body of any private entity, with the purpose of obtaining benefit for him or herself or for a third party, makes undue use of information that he or she has learned by reason of or on occasion of his or her position or duties and which is not publicly known, shall incur a prison sentence of one (1) to three (3) years and a fine of five (5) to fifty (50) legal monthly minimum wages in force.

The same penalty shall be incurred by the person who uses information known by reason of his or her profession or trade, to obtain for him or herself or for a third party, profit through the negotiation of a certain share, security or instrument registered in the National Securities Registry, provided that such information is not public knowledge.

## 2.3.3. COMPUTER CRIMES AND ILLICIT DATA PROCESSING

### ATTACKS AGAINST THE CONFIDENTIALITY, INTEGRITY AND DISCIPLINE OF DATA AND COMPUTER SYSTEMS.

**ARTICLE 269A. ABUSIVE ACCESS TO A COMPUTER SYSTEM.** Whoever, without authorization or outside of what has been agreed, accesses in whole or in part a computer system protected or not with a security measure, or remains in the computer system against the will of whoever has the legitimate right to exclude him or her, shall incur a prison sentence of forty-eight (48) to ninety-six (96) months and a fine of 100 to 1,000 legal monthly minimum wages in force.

**ARTICLE 269. UNLAWFUL HINDERING OF A COMPUTER SYSTEM OR TELECOMMUNICATIONS NETWORK.** Whoever, without being authorized to do so, prevents or obstructs the normal operation of or access to a computer system, the computer data contained therein, or a telecommunications network, shall incur a prison sentence of forty-eight (48) to ninety-six (96) months and a fine of 100 to 1,000 legal monthly minimum wages in force, provided that the conduct does not constitute a crime punishable by a higher penalty.

**ARTICLE 269C. INTERCEPTION OF COMPUTER DATA.** Whoever, without a prior judicial order, intercepts computer data at its origin, destination or inside a computer system, or the electromagnetic emissions coming from a computer system that transports it, shall incur a prison sentence of thirty-six (36) to seventy-two (72) months.

**ARTICLE 269D. COMPUTER DAMAGE.** Whoever, without being authorized to do so, destroys, damages, deletes, deteriorates, alters or suppresses computer data, or an information processing system or its parts or logical components, shall incur a prison sentence of forty-eight (48) to ninety-six (96) months and a fine of 100 to 1,000 legal monthly minimum wages in force.

**ARTICLE 269E. USE OF MALWARE.** Whoever, without being authorized to do so, produces, traffics, acquires, distributes, sells, sends, introduces or extracts from the national territory malicious software or other computer programs with harmful effects, shall incur a prison sentence of forty-eight (48) to ninety-six (96) months and a fine of 100 to 1,000 legal monthly minimum wages in force.

**ARTICLE 269F. VIOLATION OF PERSONAL DATA.** Whoever, without being authorized to do so, for his or her own or another's benefit, obtains, compiles, subtracts, offers, sells, exchanges, sends, purchases, intercepts, discloses, modifies or uses personal codes, personal data contained in files, archives, databases or similar means, shall incur a prison sentence of forty-eight (48) to ninety-six (96) months and a fine of 100 to 1,000 legal monthly minimum wages in force.

**ARTICLE 269G. IMPERSONATION OF A WEBSITE TO CAPTURE PERSONAL DATA.** Whoever with an illicit purpose and without being authorized to do so, designs, develops, traffics, sells, executes, programs or sends electronic pages, links or pop-up windows, shall incur a prison sentence of forty-eight (48) to ninety-six (96) months and a fine of 100 to 1,000 legal monthly minimum wages in force, provided that the conduct does not constitute a crime punishable by a more serious penalty.

The same penalty shall be incurred by the person who modifies the domain name resolution system in such a way as to make the user enter a different IP in the belief that he or she is accessing his or her bank or other personal or trusted site, provided that the conduct does not constitute a crime punishable by a more serious penalty.

The penalty indicated in the two preceding paragraphs shall be increased by one third to one half, if the agent has recruited victims in the crime chain to commit the crime.

**ARTICLE 269H. AGGRAVATING CIRCUMSTANCES.** The penalties imposed in accordance with the articles described in this title shall be increased by one half to three quarters if the conduct is committed:

1. On state or official or financial sector, national or foreign, computer or communications networks or systems.
2. By public servants in the exercise of their duties.
3. Taking advantage of the trust deposited by the data subject or by whoever has a contractual relationship with the data subject.
4. Revealing or disclosing the content of the information to the detriment of another.
5. Obtaining a benefit for him or herself or for a third party.
6. For terrorist purposes or generating a risk to national security or defense.
7. Using a bona fide third party as an instrument.
8. If the person who commits these conducts is responsible for the administration, management or control of such information, he or she shall also be disqualified for up to three years from exercising any profession related to information systems processed with computer equipment.

## **COMPUTER THEFT AND OTHER OFFENSES**

**ARTICLE 269I. THEFT BY COMPUTER AND SIMILAR MEANS.** Whoever, by overcoming computer security measures, carries out the conduct indicated in article 239 by manipulating a computer system, a network of electronic, telematic or other similar means, or by impersonating a user before the established authentication and authorization systems, shall incur the penalties indicated in article 240 of this Code.

**ARTICLE 269J. NON-CONSENSUAL TRANSFER OF ASSETS.** Whoever, for profit and using any computer manipulation or similar artifice, obtains the non-consensual transfer of any asset to the detriment of a third party, provided that the conduct does not constitute a crime punishable by a more serious penalty, shall incur a prison sentence of forty-eight (48) to one hundred twenty (120) months and a fine of 200 to 1,500 legal monthly minimum wages in force. The same penalty shall be imposed upon whomever manufactures, introduces, possesses or facilitates a computer program intended for the commission of the crime described in the preceding paragraph, or of a swindle.

If the conduct described in the two preceding paragraphs is for an amount greater than 200 legal monthly minimum wages, the sanction indicated therein shall be increased by half.

## **CRIMES AGAINST COPYRIGHTS**

ARTICLE 270. VIOLATION OF THE MORAL RIGHTS OF AUTHORS. A prison term of thirty-two (32) to ninety (90) months and a fine of twenty-six point sixty-six (26.66) to three hundred (300) legal monthly minimum wages in force shall be imposed upon whomever:

1. Publishes, totally or partially, without prior and express authorization of the owner of the right, an unpublished literary, artistic, scientific, cinematographic, audiovisual or phonogram work, computer program or software.
2. Enters in the register of authorship under the name of a person other than the true author, or with the title changed or deleted, or with the text altered, distorted, modified or mutilated, or falsely mentioning the name of the publisher or producer of a literary, artistic, scientific, audiovisual or phonogram work, computer program or software.
3. By any means or process, without the prior or express authorization of the owner, compiles, mutilates or transforms a literary, artistic, scientific, audiovisual or phonogram work, computer program or software.

**PARAGRAPH.** If the material support, cover or presentation of a literary, artistic, scientific, phonogram or video work, computer program or software, or cinematographic work uses the name, company name, logo or distinctive sign of the legitimate owner of the right, in cases of change, suppression, alteration, modification or mutilation of the title or text of the work, the foregoing penalties shall be increased by up to one half.

## **ARTICLE 271. VIOLATION OF COPYRIGHT AND RELATED RIGHTS.**

A prison term of four (4) to eight (8) years and a fine of twenty-six point sixty-six (26.66) to one thousand (1,000) legal monthly minimum wages in force shall be imposed on anyone who, except for the exceptions provided by law, without prior and express authorization of the owner of the corresponding rights:

1. by any means or process, reproduces a literary, scientific, artistic, cinematographic, phonogram or video work, software or computer program, or, whoever transports, stores, preserves, distributes, imports, sells, offers, acquires for sale or distribution, or supplies in any title such reproductions.
2. Represents, performs or publicly exhibits theatrical or musical works, phonograms, videos, cinematographic works, or any other work of a literary or artistic nature.
3. Rents or otherwise markets phonograms, videos, computer programs or software or cinematographic works.
4. Fixes, reproduces or markets public performances of theatrical or musical works.

5. Arranges, carries out or uses, by any means or process, the communication, fixation, execution, exhibition, sale, dissemination or distribution and representation of a work protected under this title.
6. Rebroadcasts, arranges, reproduces or, by any sound or audiovisual means, disseminates the broadcasts of broadcasting organizations.
7. Receives, disseminates or distributes by any means the broadcasts of subscription television.

**ARTICLE 272. VIOLATION OF THE MECHANISMS FOR THE PROTECTION OF COPYRIGHTS AND RELATED RIGHTS, AND OTHER FRAUDS.** A prison term from four (4) to eight (8) years and a fine of twenty-six point sixty-six (26.66) to one thousand (1,000) legal monthly minimum wages in force shall be imposed upon whomever:

1. Overcomes or circumvents the technological measures adopted to restrict unauthorized uses.
2. Suppresses or alters the essential information for the electronic management of rights, or imports, distributes or communicates copies with the suppressed or altered information.
3. Manufactures, imports, sells, leases or in any way distributes to the public a device or system that makes it possible to decrypt an encrypted program-carrying satellite signal, without the authorization of the legitimate distributor of that signal; or in any way circumvents, evades, disables or suppresses a device or system that enables right holders to control the use of their works or phonograms, or enables them to prevent or restrict any unauthorized use thereof.
4. Submits declarations or information intended directly or indirectly for the payment, collection, liquidation or distribution of economic royalties or related rights, altering or falsifying, by any means or procedure, the data necessary for these purposes.

### **2.3.4. CRIMES AGAINST THE AUTHORITY OF ATTESTATION**

**ARTICLE 273. COUNTERFEITING OF NATIONAL OR FOREIGN CURRENCY.** Whoever counterfeits national or foreign currency shall incur a prison term of six (6) to ten (10) years.

**ARTICLE 274. TRAFFICKING IN COUNTERFEIT CURRENCY.** Whoever introduces into the country or takes out of it, acquires, receives or circulates counterfeit national or foreign currency, shall incur a prison term of three (3) to eight (8) years.

**ARTICLE 275. TRAFFICKING, PROCESSING AND POSSESSION OF ELEMENTS DESTINED FOR THE COUNTERFEITING OF CURRENCY.** Whoever acquires, prepares, supplies, has in his or her possession, introduces into the country or takes out of it, elements destined for the counterfeiting of national or foreign currency, shall incur a prison term of three (3) to six (6) years.



**ARTICLE 276. ILLEGAL EMISSIONS.** The public servant or the person empowered to issue currency who orders, carries out or allows the issuance of more than the authorized amount, and makes or allows the excess to circulate, shall incur a prison term of three (3) to ten (10) years, and disqualification from the exercise of public rights and functions for the same term. Article 277. Illegal circulation of currency. Whoever puts into circulation national or foreign currency that has not been authorized or that has been excluded from the same by the competent authority shall incur imprisonment from two (2) to four (4) years. The penalty shall be increased by one third to one half when the conduct is carried out by a public servant in the exercise of his or her duties or on occasion of his or her office. Article 278. Values equated to currency. For the purposes of the preceding articles, public debt securities, bonds, promissory notes, certificates, coupons, shares or securities issued by the State or by institutions or entities in which it has a stake are considered as currency.

### **2.3.5. CRIMES AGAINST THE ECONOMIC AND SOCIAL ORDER**

#### **HOARDING, SPECULATION AND OTHER INFRACTIONS.**

**ARTICLE 302. ECONOMIC PANIC.** Whoever discloses to the public or reproduces in a media or in a public communication system false or inaccurate information that may affect the confidence of clients, users, investors or shareholders of an institution supervised or controlled by the Superintendence of Banks<sup>6</sup> or by the Superintendence of Securities<sup>7</sup> or in a Securities Fund, or any other legally constituted collective investment scheme shall incur, for that event alone, imprisonment of thirty-two (32) to one hundred forty-four (144) months and a fine of sixty-six point sixty-six (66.66) to seven hundred fifty (750) legal monthly minimum wages in force.

The same penalties shall be incurred by anyone who uses the same means to provoke or stimulate the withdrawal of national or foreign capital from the country or the collective disengagement of personnel working in industrial, agricultural or service companies.

The penalty shall be increased by up to one half, if because of the above conducts any of the foreseen results are produced.

**ARTICLE 307. ILLEGITIMATE USE OF PATENTS.** Whoever manufactures a product without the authorization of the person who has the legally protected right or uses without due authorization a patented means or process shall incur a prison term of sixteen (16) to seventy-two (72) months and a fine of twenty-six point sixty-six (26.66) to one thousand five hundred (1,500) legal monthly minimum wages in force.

The same penalty shall be incurred by whoever introduces into the country or takes out of it, exposes, offers for sale, disposes, finances, distributes, supplies, stores, transports or acquires for commercial or intermediation purposes a product manufactured with patent infringement.

**ARTICLE 308. VIOLATION OF INDUSTRIAL OR COMMERCIAL RESERVE.** Whoever uses, discloses or disseminates a discovery, scientific invention, process or industrial or commercial application, which has come to his or her knowledge by reason of his or her position, trade or profession and which must remain in reserve, shall incur a prison term of thirty-two (32) to ninety (90) months and a fine of twenty-six point sixty-six (26.66) to three thousand (3,000) legal monthly minimum wages in force.



The same penalty shall be incurred by whoever unduly knows, copies or obtains a secret related to a discovery, scientific invention, process or industrial or commercial application.

The penalty shall be forty-eight (48) to one hundred twenty-six (126) months of imprisonment and a fine of one hundred thirty-three point thirty-three (133.33) to four thousand five hundred (4500) legal monthly minimum wages in force, if personal or third-party benefit is obtained.

## **MONEY LAUNDERING**

**ARTICLE 323. MONEY LAUNDERING.** Whoever acquires, safeguards, invests, transports, transforms, stores, preserves, guards or administers goods that have their mediate or immediate origin in activities of migrant trafficking, human trafficking, extortion, illicit enrichment, extortive kidnapping, rebellion, arms

trafficking, trafficking of minors, financing of terrorism and administration of resources related to terrorist activities, trafficking of toxic drugs, narcotics or psychotropic substances, crimes against the financial system, crimes against the public administration, smuggling of hydrocarbons or their derivatives, customs fraud or favoring and facilitating smuggling, favoring smuggling of hydrocarbons or their derivatives, in any of its forms, or linked to the proceeds of crimes executed under a conspiracy to commit a crime, or gives the goods coming from such activities the appearance of legality or legalizes, hides or conceals the true nature, origin, location, destination, movement or right over such goods, shall incur, for such conduct alone, imprisonment of ten (10) to thirty (30) years and a fine of one thousand (1,000) to fifty thousand (50,000) legal monthly minimum wages in force.

The same penalty shall apply when the conducts described in the preceding paragraph are carried out on assets on which confiscation of property has been declared.

Money laundering shall be punishable even when the activities from which the property or the acts punished in the preceding paragraphs were totally or partially carried out abroad.

The custodial sentences provided for in this Article shall be increased by one third to one half when for the commission of the conducts foreign exchange or foreign trade operations were carried out, or goods were introduced into the national territory.

**ARTICLE 324. SPECIFIC AGGRAVATING CIRCUMSTANCES.** The custodial sentences provided for in the preceding article shall be increased from one third to one half when the conduct is carried out by a member of a legal entity, a corporation or an organization engaged in money laundering, and from one half to three quarters when it is carried out by the heads, administrators or persons in charge of the referred legal entities, corporations or organizations.

**ARTICLE 325. OMISSION OF CONTROL.** The member of the board of directors, legal representative, administrator or employee of a financial institution or of cooperatives engaged in savings and credit activities who, for the purpose of concealing or covering up the illicit origin of the money, omits compliance with any or all of the control mechanisms established by the legal system for cash transactions shall incur, for that conduct alone, imprisonment of thirty-eight (38) to one hundred twenty-eight (128) months and a fine of one hundred thirty-three point thirty-three (133.33) to fifteen thousand (15,000) legal monthly minimum wages in force.

**ARTICLE 325-A. OMISSION OF REPORTS ON CASH TRANSACTIONS, MOBILIZATION OR STORAGE OF CASH.** Those subjects subject to the control of the Financial Information and Analysis Unit (UIAF) who deliberately omit to comply with the reports to this entity for cash transactions or for the mobilization or storage of cash, shall incur, for that conduct alone, imprisonment of thirty-eight (38) to one hundred twenty-eight (128) months and a fine of one hundred thirty-three point thirty-three (133.33) to fifteen thousand (15,000) legal monthly minimum wages in force.

Those who are members of the board of directors, legal representatives, administrators or employees of financial institutions or cooperatives engaged in savings and credit activities are exempted from the provisions of this article, to whom the provisions of article 325 of this Chapter shall apply.

**ARTICLE 326. FRONT MAN.** Whoever lends his or her name to acquire goods with money coming from the crime of drug trafficking and related crimes, shall incur a prison term of ninety-six (96) to two hundred seventy (270) months and a fine of six hundred sixty-six point sixty-six (666.66) to fifty thousand (50,000) legal monthly minimum wages in force, without prejudice to the confiscation of the respective goods.

The same penalty shall be imposed when the conduct described in the preceding paragraph is carried out with money from extortive kidnapping, extortion and related crimes, and the fine shall be from six thousand six hundred sixty-six point sixty-six (6,666.66) to fifty thousand (50,000) legal monthly minimum wages in force, without prejudice to the confiscation of the respective assets.

**ARTICLE 327. ILLICIT ENRICHMENT OF INDIVIDUALS.** Whoever directly or through an intermediary obtains, for him or herself or for another, an unjustified equity increase, derived in one way or another from criminal activities, shall incur, for that conduct alone, imprisonment of ninety-six (96) to one hundred eighty (180) months and a fine corresponding to double the value of the illicit enrichment achieved, without exceeding the equivalent of fifty thousand (50,000) legal monthly minimum wages in force.

## **2.3.4. CRIMES AGAINST NATURAL RESOURCES AND THE ENVIRONMENT**

### **CRIMES AGAINST NATURAL RESOURCES AND THE ENVIRONMENT**

**ARTICLE 328. ILLICIT EXPLOITATION OF RENEWABLE NATURAL RESOURCES.** Whoever in breach of existing regulations appropriates, accesses, captures, maintains, introduces, extracts, exploits, uses, exports, transports, trades, explores, traffics or in any other way benefits from specimens, products or parts of fauna resources, forest, floristic, hydrobiological, coral, biological or genetic resources of the Colombian biodiversity, shall incur a prison term of sixty (60) to one hundred thirty-five (135) months and a fine of one hundred thirty-four (134) to forty-three thousand seven hundred fifty (43,750) legal monthly minimum wages in force.

The penalty shall be increased by one third to one half when the conduct is committed through the practice of removing fins from cartilaginous fish (sharks, rays or chimaeras), and discarding the rest of the body at sea.

**ARTICLE 328A. WILDLIFE TRAFFICKING.** Whoever traffics, acquires, exports or markets without the permission of the competent authority or in breach of the existing regulations, specimens, products or parts of aquatic or wild fauna or exotic wild species, shall incur a prison term of sixty (60) to one hundred thirty-five (135) months and a fine of three hundred (300) to forty thousand (40,000) legal monthly minimum wages in force.

The penalty shall be increased by one third to one half when the conduct is committed through the export or sale of cartilaginous fish fins (sharks, rays or chimaeras).

**ARTICLE 328B. POACHING.** Whoever without a permit from the competent authority or in breach of the existing regulations, hunts, exceeds the number of pieces allowed or hunts in closed seasons, shall incur a prison term of sixteen (16) to fifty-four (54) months and a fine of thirty-three (33) to nine hundred thirty-seven (937) legal monthly minimum wages in force, provided that the conduct does not constitute a crime punishable by a higher penalty.

**ARTICLE 328C. ILLEGAL FISHING.** Whoever without a permit from the competent authority or in breach of existing regulations, carries out fishing activities, markets, transports, processes or stores specimens or products of banned or protected species, in any category of threat, or in reserve areas, or in banned seasons, or in prohibited zones, shall incur, without prejudice to the administrative sanctions that may apply, imprisonment of forty-eight (48) to one hundred eight (108) months and a fine of one hundred thirty-four (134) to fifty thousand (50,000) legal monthly minimum wages in force. The same penalty shall be incurred by whoever:

1. Uses unauthorized instruments, gear and fishing methods or of technical specifications that do not correspond to those permitted by the competent authority, for any species.
2. Modifies, alters or threatens the refuges or the ecological environment of species of hydrobiological and fishing resources, as a consequence of activities of exploration or exploitation of natural resources.
3. Constructs works or installs nets, meshes or any other element that prevents the free and permanent transit of fish in the seas, marshes, lagoons, canals, rivers and canals. Paragraph. Subsistence fishing shall not be considered a crime when it complies with the parameters established in the existing regulations.

**ARTICLE 329. ILLEGAL HANDLING OF EXOTIC SPECIES.** Whoever without the permission of the competent authority or in breach of existing regulations, introduces, transplants, manipulates, sows, hybridizes, markets, transports, maintains, transforms, experiments, inoculates or propagates exotic wild species, species that endanger human health, the environment or the species of Colombian biodiversity, shall incur a prison term of forty-eight (48) to one hundred eight (108) months and a fine of one hundred sixty-seven (167) to eighteen thousand seven hundred fifty (18,750) legal monthly minimum wages in force.

**ARTICLE 330. DEFORESTATION.°.** Whoever without permission from the competent authority or in breach of existing regulations cuts, burns, trims, uproots or destroys areas equal to or greater than one continuous or discontinuous hectare of natural forest, shall incur in imprisonment of sixty (60) to one

hundred forty-four (144) months and a fine of one hundred thirty-four (134) to fifty thousand (50,000) legal monthly minimum wages in force.

The penalty shall be increased by half when:

1. The conduct is carried out for land grabbing, for crops for illicit use or for improvement or construction of illegal infrastructure.
2. The conduct affects more than 30 contiguous hectares in extension or when in a period of up to six months the same deforested area is accumulated.

**ARTICLE 330A. PROMOTION AND FINANCING OF DEFORESTATION.** Whoever promotes, finances, directs, facilitates, provides means, takes economic advantage or obtains any other benefit from the felling, burning, cutting, uprooting or destruction of areas equal to or greater than one continuous or discontinuous hectare of natural forest, shall incur a prison term of ninety-six (96) to one hundred eighty (180) months and a fine of three hundred (300) to fifty thousand (50,000) legal monthly minimum wages in force.

The penalty shall be increased by half when:

1. The conduct is carried out for land grabbing, for crops for illicit use, illicit exploration and exploitation of minerals or for improvement or construction of illegal infrastructure.
2. The conduct affects more than 30 contiguous hectares in extension or when in a period of up to six months the same deforested area is accumulated.

**ARTICLE 331. ILLEGAL HANDLING AND USE OF GENETICALLY MODIFIED ORGANISMS, MICROORGANISMS AND DANGEROUS SUBSTANCES OR ELEMENTS.** Whoever, in breach of existing regulations, introduces, imports, manipulates, experiments, possesses, inoculates, commercializes, exports, releases or propagates genetically modified organisms, microorganisms, molecules, substances or elements that endanger the health or existence of plant resources, flora, fauna, hydrobiological and water resources or detrimentally alter their populations, shall incur a prison term of sixty (60) to one hundred eight (108) months and a fine of one hundred sixty-seven (167) to eighteen thousand seven hundred fifty (18,750) legal monthly minimum wages in force.

**ARTICLE 332. ILLEGAL EXPLOITATION OF MINING DEPOSITS AND OTHER MATERIALS.** Whoever, without the permission of the competent authority or in breach of existing regulations, exploits, explores or extracts mining deposits, or exploits sand, stone or dragging material from riverbeds and banks by means capable of causing serious damage to natural resources or the environment, shall incur a prison term of thirty-two (32) to one hundred forty-four (144) months and a fine of one hundred thirty-three point thirty-three (133.33) to fifty thousand (50,000) legal monthly minimum wages in force.

**ARTICLE 333. DAMAGE TO NATURAL RESOURCES AND ECOCIDE.** Whoever in breach of the existing regulations destroys, renders useless, makes disappear or causes a serious environmental impact or in any other way damages the natural resources referred to in this title or those associated with them, shall

incur a prison term of sixty (60) to one hundred thirty-five (135) months and a fine of one hundred sixty-seven (167) to eighteen thousand seven hundred fifty (18,750) legal monthly minimum wages in force.

Paragraph 1. For the purposes of this article, ecocide is understood as massive damage and serious and systemic generalized destruction of ecosystems.

Paragraph 2. Serious environmental impact shall be understood as the alteration of the environmental conditions generated as a consequence of the impact on the environmental components, eliminating the integrity of the system and putting its sustainability at risk.

**ARTICLE 334. ENVIRONMENTAL POLLUTION.** Whoever, in breach of existing regulations, directly or indirectly pollutes, causes or produces or carries out emissions, discharges, radiations, noises, deposits or dispositions into the air, the atmosphere or other components of the airspace, the soil, the subsoil, surface waters, maritime or underground waters or other natural resources in such a way that it pollutes or generates a harmful effect on the environment, endangering human health and natural resources, shall incur a prison term of sixty-nine (69) to one hundred forty (140) months and a fine of one hundred forty (140) to fifty thousand (50,000) legal monthly minimum wages in force.

The penalty shall be increased by one third to one half when in the commission of any of the acts described in this article, without prejudice to those that may correspond in accordance with other provisions of this Code, any of the following circumstances concur:

1. When the conduct is carried out for terrorist purposes.
2. When the emission or discharge exceeds twice what is allowed by existing regulations or has violated more than two parameters.
3. When the individual or legal entity carries out clandestinely or deceitfully discharges, deposits, emissions or dispositions.
4. When the express orders of the competent administrative or judicial authority to correct or suspend the activities typified in this article have been disobeyed.
5. When misleading or false information has been concealed or provided on the environmental aspects of the same or that the control and surveillance activity of the competent authority has been obstructed.
6. When the contamination is the result of storage, transportation, dumping or inadequate disposal of hazardous waste.

**ARTICLE 334A. ENVIRONMENTAL POLLUTION DUE TO MINING OR HYDROCARBON DEPOSITS.** Whoever causes, pollutes or directly or indirectly contaminates water resources, soil, subsoil or atmosphere, on account of the extraction or excavation, exploration, construction and assembly, exploitation, benefit, transformation, transportation of the mining or hydrocarbon activity, shall incur a prison term of five (5) to ten (10) years, and a fine of thirty thousand (30,000) to fifty thousand (50,000) legal monthly minimum wages in force.

**ARTICLE 335. ILLEGAL EXPERIMENTATION WITH SPECIES, BIOLOGICAL OR BIOCHEMICAL AGENTS.**

Amended. Whoever without the permission of the competent authority or in breach of the existing regulations conducts experiments with species, biological or biochemical agents that constitute, generate or endanger the survival of species of the Colombian biodiversity shall incur a prison term of sixty (60) to one hundred forty-four (144) months and a fine of one hundred thirty-four (134) to fifty thousand (50,000) legal monthly minimum wages in force.

**ARTICLE 336. INVASION OF AREAS OF SPECIAL ECOLOGICAL IMPORTANCE.** Whoever invades, remains, even temporarily, or makes undue use of the natural resources referred to in this title in a forest reserve area, ecosystems of ecological importance, beaches, low tide lands, indigenous reserves or reservations, lands of collective property of the black communities, regional parks, national natural parks, area or ecosystem of strategic interest, protected area, as defined in the law or regulations, shall incur a prison term of forty-eight (48) to one hundred forty-four (144) months and a fine of one hundred thirty-four (134) to fifty thousand (50,000) legal monthly minimum wages in force.

The aforementioned penalty shall be increased by one third to one half when, as a consequence of the invasion, the natural components that served as the basis for its declaration, or the natural conditions of the corresponding area or territory, are seriously affected.

**ARTICLE 336A. FINANCING INVASION OF AREAS OF SPECIAL ECOLOGICAL IMPORTANCE.** Whoever promotes, finances, directs, facilitates, provides means, takes economic advantage or obtains any other benefit from the conducts described in the previous article, shall incur a prison term of ninety-six (96) to one hundred eighty (180) months and a fine of three hundred (300) to fifty thousand (50,000) legal monthly minimum wages in force.

The aforementioned penalty shall be increased by one third to one half when, as a consequence of the invasion, the natural components that served as the basis for its declaration, or the natural conditions of the corresponding area or territory, are seriously affected.

**ARTICLE 338. AGGRAVATING CIRCUMSTANCES.** The penalties for the crimes described in this title shall be increased by one third to one half, when:

- a) When the conduct is committed in natural ecosystems that are part of the national or regional system of protected areas, in strategic ecosystems, or in territories of ethnic communities. With the exception of the conducts set forth in Articles 336 and 336A.
- b) When the conduct is committed against threatened wild species of the Colombian biological diversity or species that are banned, prohibited, in reproduction or growth period, of special ecological importance, rare or endemic to the Colombian territory. With the exception of the conduct contemplated in article 328C.
- c) When the conduct alters the soil, subsoil, hydrobiological resources, diverts bodies of water or affects marine ecosystems, mangroves, sea grasses and corals.
- d) When the conduct is committed by the action or omission of those who exercise monitoring, control and surveillance duties or persons who exercise public duties.

- e) When the conduct is committed by members of organized criminal groups or organized armed groups or with the purpose of financing terrorist activities, organized crime groups, armed groups outside the law, national or foreign terrorist groups, or their members.
- f) When the conduct is committed through the use or manipulation of technological tools.
- g) When the conduct endangers human health.
- h) When the conduct introduces into the soil or water substances prohibited by existing regulations or is carried out through the use of toxic, dangerous, poisonous, flammable, combustible, explosive, radioactive substances, the use of explosives, heavy machinery or mechanized means, the latter being understood as all types of mechanized equipment or tools used for the removal, extraction or benefit of minerals or the illegal distribution of fuels.
- i) When promoting, financing, directing, facilitating or supplying means to carry out the conducts. With the exception of the conducts contemplated in articles 330A, 336A and 337A.
- j) When the conduct causes disease, plague or genetic erosion of the species.

**ARTICLE 339. MODALITY OF NEGLIGENCE.** The penalties provided in articles 333, 334, 334A of this code will be reduced by up to half when the punishable conducts are committed due to negligence.

## 2.3.7. CRIMES AGAINST ANIMALS

### **ARTICLE 339A. CRIMES AGAINST THE LIFE, PHYSICAL AND EMOTIONAL INTEGRITY OF ANIMALS.**

Whoever, by any means or procedure, mistreats a domestic, tame, wild vertebrate or exotic vertebrate animal, causing death or injuries that seriously undermine its health or physical integrity, shall incur a prison sentence of twelve (12) to thirty-six (36) months, and special disqualification of one (1) to three (3) years for the exercise of profession, trade, commerce or possession related to animals and a fine of five (5) to sixty (60) legal monthly minimum wages in force.

**ARTICLE 339B. AGGRAVATING CIRCUMSTANCES.** The penalties contemplated in the preceding article shall be increased from one half to three quarters, if the conduct is committed:

- a) With malice;
- b) When one or more of the aforementioned conducts are perpetrated on a public road or in a public place;
- c) By taking advantage of someone with legal immunity or minors or in their presence;
- d) When sexual acts are committed with animals;
- e) When any of the crimes provided for in the preceding articles is committed by a public servant or a person exercising public functions.



Paragraph 1. The practices, within the framework of the regulations in force, of proper handling of animals for the purpose of care, reproduction, breeding, raising, training, maintenance; slaughter and processing related to the production of food; and training activities for legally accepted competitions are exempted from the penalties provided for in this law.

Paragraph 2. Those who carry out public health actions aimed at controlling epidemic outbreaks or transmission of zoonotic diseases shall not be subject to the penalties provided for in this law.

## **2.3.8. CRIMES AGAINST PUBLIC SECURITY**

### **CONSPIRACY TO COMMIT A CRIME, TERRORISM, THREATS AND INSTIGATION.**

**ARTICLE 340. CONSPIRACY TO COMMIT A CRIME.** When several persons conspire with the purpose of committing crimes, each one of them shall be punished, for that single conduct, with imprisonment of forty-eight (48) to one hundred eight (108) months.

When the conspiracy is to commit crimes of genocide, forced disappearance of persons, torture, forced displacement, homicide, terrorism, trafficking of toxic drugs, narcotics or psychotropic substances, extortive

kidnapping, extortion, illicit enrichment, money laundering or front man and related crimes, or Financing of Terrorism and administration of resources related to terrorist activities, the penalty shall be imprisonment of eight (8) to eighteen (18) years and a fine of two thousand seven hundred (2,700) to thirty thousand (30,000) legal monthly minimum wages in force.

The custodial sentence shall be increased by half for those who organize, encourage, promote, direct, lead, constitute or finance the criminal conspiracy.

In the case of conspiracy to commit crimes of smuggling of hydrocarbons or their derivatives, customs fraud, favoring and facilitating smuggling, favoring smuggling of hydrocarbons or their derivatives, the penalty shall be imprisonment for six (6) to twelve (12) years and a fine of two thousand (2,000) to thirty thousand (30,000) legal monthly minimum wages in force.

**ARTICLE 341. TRAINING FOR ILLICIT ACTIVITIES.** Whoever organizes, instructs, trains or equips persons in tactics, techniques or military procedures for the development of terrorist activities, death squads, private justice groups or gangs of hired killers, or hires them, shall incur a prison term of two hundred forty (240) to three hundred sixty (360) months and a fine of one thousand three hundred thirty-three point thirty-three (1,333.33) to thirty thousand (30,000) legal monthly minimum wages in force.

**ARTICLE 342. AGGRAVATING CIRCUMSTANCES.** When the conducts described in the preceding articles are committed by active or retired members of the Public Force or State security agencies, the penalty shall be increased by one third to one half.

**ARTICLE 343. TERRORISM.** Whoever provokes or maintains the population or a sector thereof in a state of anxiety or terror, by means of acts that endanger the life, physical integrity or freedom of persons or buildings or means of communication, transportation, processing or conduction of fluids or driving

forces, using means capable of causing havoc, shall incur a prison term of one hundred sixty (160) to two hundred seventy (270) months and a fine of one thousand three hundred thirty-three point thirty-three (1,333.33) to fifteen thousand (15,000) legal monthly minimum wages in force, without prejudice to the corresponding penalty for the other crimes caused by this conduct.

If the state of anxiety or terror is provoked by means of a telephone call, tape, video, cassette or anonymous letter, the penalty shall be thirty-two (32) to ninety (90) months and the fine shall be one hundred thirty-three point thirty-three (133.33) to seven hundred fifty (750) legal monthly minimum wages in force.

**ARTICLE 344. AGGRAVATING CIRCUMSTANCES.** The penalties indicated in the first paragraph of the preceding article shall be from one hundred ninety-two (192) to three hundred sixty (360) months of imprisonment and a fine of six thousand six hundred sixty-six point sixty-six (6,666.66) to forty-five thousand (45,000) legal monthly minimum wages in force in the following cases:

1. A minor under eighteen (18) years of age is made a co-participant in the commission of the crime;
2. Assault or seizure of facilities of the Public Force, of the State security forces, or diplomatic or consular offices;
3. The conduct is carried out to impede or alter the normal development of democratic contests;
4. The perpetrator or participant is a member of the Public Force or of a State security agency;
5. When the conduct involves an internationally protected person other than those indicated in Title II of this Book, or diplomatic agents in accordance with the International Treaties and Conventions ratified by Colombia, or when buildings of friendly countries are affected or international relations are disturbed.

**ARTICLE 345. FINANCING OF TERRORISM AND ORGANIZED CRIME GROUPS AND ADMINISTRATION OF RESOURCES RELATED TO TERRORIST ACTIVITIES AND ORGANIZED CRIME.** Whoever directly or indirectly provides, collects, delivers, receives, administers, contributes, safeguards or keeps funds, goods or resources, or performs any other act that promotes, organizes, supports, maintains, finances or economically sustains organized crime groups, armed groups outside the law or their members, or national or foreign terrorist groups, or national or foreign terrorists, or terrorist activities, shall incur a prison term of thirteen (13) to twenty-two (22) years and a fine of one thousand three hundred (1,300) to fifteen thousand (15,000) legal monthly minimum wages in force.

**ARTICLE 359. USE OR RELEASE OF HAZARDOUS SUBSTANCES OR OBJECTS.** Whoever uses, sends, sends or throws against a person, building or means of transportation, or in a public place or place open to the public, a substance or object of those mentioned in the preceding article, shall incur a prison term of sixteen (16) to ninety (90) months, provided that the conduct does not constitute another crime.

If the conduct is committed inside a sports or cultural venue, it shall also incur a fine of five (5) to ten (10) legal monthly minimum wages in force and a prohibition to visit the cultural or sports venue for a period between six (6) months and three (3) years.

The penalty shall be eighty (80) to one hundred eighty (180) months of imprisonment and a fine of one hundred thirty-four (134) to seven hundred fifty (750) legal monthly minimum wages in force, when the conduct is carried out for terrorist purposes or against members of the public force.

The penalty shall be increased by one third to one half when the object thrown corresponds to explosive devices, incendiary elements, or chemical substances that endanger life, personal integrity or property.

Whoever carries or brings sharp weapons or dangerous objects into a sports or cultural venue shall incur a fine of five (5) to ten (10) legal monthly minimum wages in force and a prohibition to visit the sports or cultural venue from six (6) months to three (3) years.

**ARTICLE 360. MODALITY OF NEGLIGENCE.** If any of the conducts described in the previous articles are caused intentionally, in cases where it is possible according to its structural configuration, the corresponding penalty shall be reduced from one third to one half.

**ARTICLE 361. INTRODUCTION OF NUCLEAR WASTE AND TOXIC WASTE.** Whoever introduces nuclear waste or toxic waste into the national territory shall incur a prison term of forty-eight (48) to one hundred eighty (180) months and a fine of one hundred thirty-three point thirty-three (133.33) to thirty thousand (30,000) legal monthly minimum wages in force.

**ARTICLE 362. DISTURBANCE OF NUCLEAR OR RADIOACTIVE FACILITIES.** Whoever by any means endangers the normal operation of a nuclear or radioactive facility, shall incur a prison term of forty-eight (48) to one hundred forty-four (144) months and a fine of one hundred thirty-three point thirty-three (133.33) to thirty thousand (30,000) legal monthly minimum wages in force.

**ARTICLE 363. TRAFFICKING, TRANSPORT AND POSSESSION OF RADIOACTIVE MATERIALS OR NUCLEAR SUBSTANCES.** Whoever without the permission of the competent authority manufactures, transports, possesses, stores, distributes, receives, sells, supplies or traffics radioactive materials or nuclear substances, uses their waste or makes use of radioactive isotopes, shall incur a prison term of thirty-two (32) to one hundred eight (108) months and a fine of twenty-six point sixty-six (26.66) to one hundred fifty (150) legal monthly minimum wages in force.

The penalty shall be from forty-eight (48) to one hundred forty-four (144) months and a fine of sixty-six point sixty-six (66.66) to three hundred (300) legal monthly minimum wages in force, when as a consequence of any of the above conducts there is a release of nuclear energy or radioactive elements that endanger the life or health of people or their property.

**ARTICLE 365. MANUFACTURE, TRAFFIC, CARRYING OR POSSESSION OF FIREARMS, ACCESSORIES, PARTS OR AMMUNITION.** Whoever without the permission of the competent authority imports, traffics, manufactures, transports, stores, distributes, sells, supplies, repairs, carries or holds in possession somewhere firearms for personal defense, their essential parts, essential accessories or ammunition, shall incur a prison term of nine (9) to twelve (12) years.

The same penalty shall be incurred in the case of firearms of homemade or handmade manufacture, except for shotguns in rural areas.

The aforementioned penalty shall be doubled when the conduct is committed in the following circumstances:

1. Using motorized vehicles.
2. When the weapon comes from a crime.
3. When violent resistance is put up to the requirements of the authorities.
4. When masks or similar elements are used to hide the identity or make it difficult to do so.
5. To act in criminal co-participation.
6. When the weapons or ammunition have been modified in their characteristics of manufacture or origin, which increase their lethality.
7. When the perpetrator belongs to or is part of an organized crime group.

**ARTICLE 366. MANUFACTURE, TRAFFICKING AND CARRYING OF ARMS, RESTRICTED-USE AMMUNITION, AMMUNITION FOR THE EXCLUSIVE USE OF THE ARMED FORCES OR EXPLOSIVES.**

Whoever without the permission of the competent authority imports, traffics, manufactures, transports, repairs, stores, preserves, acquires, supplies, carries or holds in possession somewhere arms or their essential parts, essential accessories, ammunition for private use of the Armed Forces or explosives shall incur a prison term of eleven (11) to fifteen (15) years.

The aforementioned penalty shall be doubled when the circumstances determined in subsection 3 of the preceding article are present.

**ARTICLE 367. MANUFACTURE, IMPORT, TRAFFICKING, POSSESSION AND USE OF CHEMICAL, BIOLOGICAL AND NUCLEAR WEAPONS.**

Whoever imports, traffics, manufactures, stores, preserves, acquires, supplies, uses or carries chemical, biological or nuclear weapons shall incur a prison term of ninety-six (96) to one hundred eighty (180) months and a fine of one hundred thirty-three point thirty-three (133.33) to thirty thousand (30,000) legal monthly minimum wages in force.

The penalty shall be increased up to half if genetic engineering is used to produce biological or exterminating weapons of the human species.

## **2.3.9. CRIMES AGAINST PUBLIC HEALTH**

### **DRUG TRAFFICKING AND OTHER OFFENSES**

**ARTICLE 375. CONSERVATION OR FINANCING OF PLANTATIONS.** Whoever without the permission of the competent authority cultivates, keeps or finances plantations of marijuana or any other plant from which cocaine, morphine, heroin or any other drug that produces dependence, or more than one (1) kilogram of seeds of said plants, shall incur a prison term of ninety-six (96) to two hundred sixteen (216) months and a fine of two hundred sixty-six point sixty-six (266.66) to two thousand two hundred fifty (2,250) legal monthly minimum wages in force.

If the number of plants referred to in this Article exceeds twenty (20) without exceeding one hundred (100), the penalty shall be sixty-four (64) to one hundred eight (108) months of imprisonment and a fine of thirteen point thirty-three (13.33) to seventy-five (75) legal monthly minimum wages in force.

The sanctions provided in this article shall not apply to the medical and scientific use of cannabis as long as the licenses have been granted, either by the Ministry of Health and Social Protection or the Ministry of Justice and Law, according to their competencies.

**ARTICLE 376. DRUG TRAFFICKING, MANUFACTURE OR POSSESSION.** Whoever, without the permission of the competent authority, introduces into the country, whether in transit or to take out of it, transports, carries, stores, preserves, prepares, sells, offers, acquires, finances or supplies narcotic substances under any title, psychotropic or synthetic drugs included in tables one, two, three and four of the United Nations Convention on Psychotropic Substances, shall incur a prison term of one hundred twenty-eight (128) to three hundred sixty (360) months and a fine of one thousand three hundred thirty-four (1,334) to fifty thousand (50,000) legal monthly minimum wages in force.

If the amount of the drug does not exceed one thousand (1,000) grams of marijuana, two hundred (200) grams of hashish, one hundred (100) grams of cocaine or cocaine-based narcotic substance or twenty (20) grams of poppy derivatives, two hundred (200) grams of synthetic drug, sixty (60) grams of amyl nitrate, sixty (60) grams of ketamine and GHB, the penalty shall be sixty-four (64) to one hundred eight (108) months of imprisonment and a fine of two (2) to one hundred fifty (150) legal monthly minimum wages in force. If the amount of the drug exceeds the maximum limits provided above without exceeding ten thousand (10,000) grams of marijuana, three thousand (3,000) grams of hashish, two thousand (2,000) grams of cocaine or cocaine-based narcotic substance or sixty (60) grams of poppy derivatives, four thousand (4,000) grams of synthetic drug, five hundred (500) grams of amyl nitrate, five hundred (500) grams of ketamine and GHB, the penalty shall be ninety-six (96) to one hundred forty-four (144) months of imprisonment and a fine of one hundred twenty-four (124) to one thousand five hundred (1,500) legal monthly minimum wages in force.

The sanctions provided in this article shall not apply to the medical and scientific use of cannabis as long as the licenses have been granted, either by the Ministry of Health and Social Protection or the Ministry of Justice and Law, according to their competencies.

**ARTICLE 382. TRAFFICKING OF SUBSTANCES FOR THE PROCESSING OF NARCOTICS.** Whoever illegally introduces into the country, even in transit, or takes out of it, transports, has in his or her possession, diverts from legal use through companies or commercial establishments, any elements or substances that serve for the processing of cocaine, heroin, drugs of synthetic origin and other narcotics that produce dependency, such as ethyl ether, acetone, ammonia, potassium permanganate, light carbonate, sulfuric acid, hydrochloric acid, diluents, solvents, substances contemplated in tables one and two of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and those that according to a previous official opinion of the National Narcotics Council are used for the same purpose, as well as medicines for veterinary use, shall incur a prison term of 96 to 180 months and a fine of 3,000 to 50,000 legal monthly minimum wages in force.

## 2.3.10. CRIMES AGAINST PUBLIC ADMINISTRATION

### EMBEZZLEMENT

**ARTICLE 397. EMBEZZLEMENT BY APPROPRIATION.** The public servant who appropriates for his or her own benefit or for the benefit of a third party the property of the State or of companies or institutions in which the latter has a share, or property or parafiscal funds, or property of individuals whose administration, possession or custody has been entrusted to him or her by reason of or on account of his or her duties, shall incur a prison term of ninety-six (96) to two hundred seventy (270) months, a fine equivalent to the value of what was appropriated without exceeding the equivalent of fifty thousand (50,000) legal monthly minimum wages in force, and disqualification from the exercise of public rights and duties for the same term.

If the amount appropriated exceeds a value of two hundred (200) legal monthly minimum wages in force, such penalty shall be increased by up to one half. The fine penalty shall not exceed fifty thousand legal monthly minimum wages in force.

If the appropriated amount does not exceed fifty (50) legal monthly minimum wages in force, the penalty shall be sixty-four (64) to one hundred eighty (180) months and disqualification from the exercise of public rights and duties for the same term and a fine equivalent to the value of the appropriated amount.

**ARTICLE 398. EMBEZZLEMENT BY USE.** The public servant who unduly uses or allows another to use assets of the State or of companies or institutions in which the latter has a share, or assets of individuals whose administration, possession or custody has been entrusted to him or her by reason of or on account of his or her duties, shall incur a prison term of sixteen (16) to seventy-two (72) months and disqualification from the exercise of public rights and duties for the same term.

**ARTICLE 399. EMBEZZLEMENT BY DIFFERENT OFFICIAL APPLICATION.** The public servant who gives the assets of the State or of companies or institutions in which the latter has a share, whose administration, possession or custody has been entrusted to him or her by reason of or on account of his or her duties, an official application different from that for which they are intended, or omits sums greater than those fixed in the budget, or invests or uses them in a manner not provided therein, to the detriment of social investment or the salaries or social benefits of the officers, shall incur a prison term of sixteen (16) to fifty-four (54) months, a fine of thirteen point thirty-three (13.33) to seventy-five (75) legal monthly minimum wages in force and disqualification from the exercise of public rights and duties for the same term.

**ARTICLE 400. EMBEZZLEMENT BY NEGLIGENCE.** The public servant who, with respect to the assets of the State or of companies or institutions in which the latter has a share, or assets of individuals whose administration, possession or custody has been entrusted to him or her by reason of or on account of his or her duties, due to negligence causes them to be lost, misplaced or damaged, shall incur a prison term of sixteen (16) to fifty-four (54) months, a fine of thirteen point thirty-three (13.33) to seventy-five (75) legal monthly minimum wages in force and disqualification from the exercise of public duties for the same term indicated.

**ARTICLE 401. MITIGATING CIRCUMSTANCES.** If before the start of the investigation, the agent, by himself or through a third party, causes the misuse to cease, repairs what was damaged, corrects the different official application, or reintegrates what was appropriated, lost or misplaced, or its value updated with interest, the penalty shall be reduced by half.

If the reimbursement is made before the second instance sentence is issued, the penalty shall be reduced by one third.

When the reimbursement is partial, the judge shall, proportionally, reduce the penalty by up to one fourth.

## **EXTORTION**

**ARTICLE 404. EXTORTION.** The public servant who, abusing his position or duties, constricts or induces someone to give or promise to the same servant or to a third party, undue money or any other benefit, or solicits them, shall incur a prison term of ninety-six (96) to one hundred eighty (180) months, a fine of sixty-six point sixty-six (66.66) to one hundred fifty (150) legal monthly minimum wages in force, and disqualification from the exercise of public rights and duties from eighty (80) to one hundred forty-four (144) months.

## **BRIBERY**

**ARTICLE 405. PROPER PASSIVE BRIBERY.** The public servant who receives for him or herself or for another, money or any other benefit, or accepts a promise of remuneration, directly or indirectly, to delay or omit an act proper to his or her office, or to execute one contrary to his or her official duties, shall incur a prison term of eighty (80) to one hundred forty-four (144) months, a fine of sixty-six point sixty-six (66.66) to one hundred fifty (150) legal monthly minimum wages in force, and disqualification from the exercise of public rights and duties from eighty (80) to one hundred forty-four (144) months.

**ARTICLE 406. IMPROPER PASSIVE BRIBERY.** The public servant who accepts for him or herself or for another, money or any other benefit or promise of remuneration, directly or indirectly, for an act he or she must perform in the performance of his or her duties, shall incur a prison term of sixty-four (64) to one hundred twenty-six (126) months, a fine of sixty-six point sixty-six (66.66) to one hundred fifty (150) legal monthly minimum wages in force, and disqualification from the exercise of public rights and duties for eighty (80) to one hundred forty-four (144) months.

The public servant who receives money or any other benefit from a person who has an interest in a matter brought to his or her attention shall incur a prison term of thirty-two (32) to ninety (90) months, a fine of forty (40) to seventy-five (75) legal monthly minimum wages in force, and disqualification from the exercise of public rights and duties for eighty (80) months.

**ARTICLE 407. ACTIVE BRIBERY.** Whoever gives or offers money or any other benefit to a public servant, in the cases provided for in the two preceding articles, shall incur a prison term of forty-eight (48) to one hundred eight (108) months, a fine of sixty-six point sixty-six (66.66) to one hundred fifty (150) legal monthly minimum wages in force, and disqualification from the exercise of public rights and functions for eighty (80) to one hundred forty-four (144) months.



## **PERVERSION OF JUSTICE**

**ARTICLE 413. PERVERSION OF JUSTICE BY ACTION.** The public servant who issues a resolution, decision or opinion manifestly contrary to the law shall incur a prison term of forty-eight (48) to one hundred forty-four (144) months, a fine of sixty-six point sixty-six (66.66) to three hundred (300) legal monthly minimum wages in force, and disqualification from the exercise of public rights and duties of eighty (80) to one hundred forty-four (144) months<sup>15</sup>.

**ARTICLE 414. PERVERSION OF JUSTICE BY OMISSION.** The public servant who omits, delays, refuses or denies an act proper to his or her duties shall incur a prison term of thirty-two (32) to ninety (90) months, a fine of thirteen point thirty-three (13.33) to seventy-five (75) legal monthly minimum wages in force, and disqualification from the exercise of public rights and duties for eighty (80) months<sup>16</sup>.

**ARTICLE 415. AGGRAVATING CIRCUMSTANCES.** The penalties established in the preceding articles shall be increased by up to one third when the conducts are carried out in judicial or administrative proceedings for crimes of genocide, homicide, torture, forced displacement, forced disappearance, kidnapping for ransom, extortion, rebellion, terrorism, conspiracy, drug trafficking, illicit enrichment, money laundering, or any of the conducts contemplated in Title II of this Book.

## **ABUSE OF AUTHORITY AND OTHER INFRACTIONS**

**ARTICLE 416. ABUSE OF AUTHORITY BY ARBITRARY AND UNJUST ACT.** The public servant who, outside the cases specially provided for as punishable conducts, on account of or exceeding the exercise of his or her duties, commits an arbitrary and unjust act, shall incur a fine and loss of employment or public office.

**ARTICLE 417. ABUSE OF AUTHORITY FOR FAILURE TO REPORT.** The public servant who, having knowledge of the commission of a punishable conduct whose investigation must be carried out ex officio, fails to report it to the authority, shall incur a fine and loss of employment or public office.

The penalty shall be thirty-two (32) to seventy-two (72) months of imprisonment if the punishable conduct not reported is one of those contemplated in the crime of omission to report an individual.

**ARTICLE 418. DISCLOSURE OF A SECRET.** The public servant who unduly discloses a document or news that must be kept secret or reserved shall incur a fine and loss of employment or public office.

If the conduct results in damages, the penalty shall be sixteen (16) to fifty-four (54) months of imprisonment, a fine of twenty (20) to ninety (90) legal monthly minimum wages in force, and disqualification from the exercise of public rights and duties for eighty (80) months.

**ARTICLE 419. USE OF A MATTER SUBJECT TO SECRECY OR RESERVE.** The public servant who uses for his or her own or another's benefit, scientific discoveries, or other information or data that come to his or her knowledge by reason of his or her duties and which must remain secret or reserved, shall incur in a fine and loss of employment or public office, provided that the conduct does not constitute another crime punishable with a greater penalty.

**ARTICLE 420. IMPROPER USE OF PRIVILEGED OFFICIAL INFORMATION.** The public servant who, as an employee or director or member of a board or administrative body of any public entity, makes improper use of information that he or she has learned by reason of or on occasion of his or her duties and that is not publicly known, in order to obtain benefits for him or herself or for a third party, whether an individual or legal entity, shall incur a fine and the loss of employment or public office.

**ARTICLE 421. ADVICE AND OTHER ILLEGAL ACTIONS.** The public servant who illegally represents, litigates, manages or advises in judicial, administrative or police matters, shall incur a fine and loss of employment or public office.

If the accused is a servant of the judicial branch or of the Public Ministry, the penalty shall be imprisonment of sixteen (16) to fifty-four (54) months, and disqualification from the exercise of public rights and duties for eighty (80) months.

#### **USURPATION AND ABUSE OF PUBLIC FUNCTIONS.**

**ARTICLE 425. USURPATION OF PUBLIC FUNCTIONS.** The private individual who without legal authorization exercises public functions shall incur a prison term of sixteen (16) to thirty-six (36) months.

**ARTICLE 426. SIMULATION OF INVESTITURE OR OFFICE.** Whoever simulates public office or investiture or pretends to belong to the public force shall incur a prison term of two (2) to four (4) years and a fine of three (3) to fifteen (15) legal monthly minimum wages in force.

The same penalty shall be incurred by anyone who for illegal purposes wears or uses uniforms or badges of a legal entity.

The penalty shall be doubled if the conduct is carried out for terrorist purposes or when participating in organized crime groups.

**ARTICLE 427. USURPATION AND ABUSE OF PUBLIC FUNCTIONS FOR TERRORIST PURPOSES.** The penalties indicated in Articles 425, 426 and 428 shall be from four (4) to eight (8) years when the conduct is carried out for terrorist purposes.

#### **CRIMES AGAINST PUBLIC SERVANTS**

**ARTICLE 429. VIOLENCE AGAINST PUBLIC SERVANTS.** Whoever exercises violence against a public servant, by reason of his or her duties or to force them to execute or omit some act proper to their position or to perform one contrary to their official duties, shall incur a prison term of four (4) to eight (8) years.

**ARTICLE 430. DISTURBANCE OF OFFICIAL ACTS.** Whoever simulating authority or invoking a false order of authority or king use of any other deceitful maneuver, attempts to prevent or disturb the meeting or the exercise of the functions of the legislative, jurisdictional or administrative corporations or authorities, or of any other public authority, or attempts to influence their decisions or deliberations, shall incur a prison term of two (2) to four (4) years and a fine.

Whoever carries out the above conduct by means of violence shall incur a prison term of four (4) to eight (8) years.

## **IMPROPER USE OF INFORMATION AND INFLUENCE DERIVED FROM THE EXERCISE OF A PUBLIC FUNCTION.**

### **ARTICLE 431. UNDUE USE OF INFORMATION OBTAINED IN THE EXERCISE OF PUBLIC FUNCTION.**

Whoever, having served as a public servant during the immediately preceding year, uses, for his or her own or another's benefit, information obtained as such and which is not publicly known, shall incur a fine.

### **ARTICLE 432. UNDUE USE OF INFLUENCE DERIVED FROM THE EXERCISE OF PUBLIC FUNCTION.**

Whoever, having served as a public servant during the immediately preceding year, uses, for his or her own or another's benefit, influences derived from the exercise of the position or the function performed, in order to obtain advantages in an official proceeding, shall be fined.

**ARTICLE 433. TRANSNATIONAL BRIBERY.** Whoever gives, promises or offers to a foreign public servant, for his or her own or another's benefit, directly or indirectly, sums of money, any object of monetary value or other benefit or advantage in exchange for the performance, omission or delay of any act related to the exercise of his or her duties and in connection with an international business or transaction, shall incur imprisonment of nine (9) to fifteen (15) years, disqualification from the exercise of public rights and duties for the same term and a fine of six hundred fifty (650) to fifty thousand (50,000) legal monthly minimum wages in force.

**PARAGRAPH:** For the purposes of the provisions of this article, a foreign public servant is considered to be any person who holds a legislative, administrative or judicial position in a State, its political subdivisions or local authorities, or a foreign jurisdiction, regardless of whether the individual has been appointed or elected. A foreign public servant is also considered to be any person who exercises a public function for a State, its political subdivisions or local authorities, or in a foreign jurisdiction, whether within a public agency, a State enterprise or an entity whose decision-making power is subject to the will of the State, its political subdivisions or local authorities, or a foreign jurisdiction. It shall also be understood that any official or agent of a public international organization has the aforementioned capacity.

## **2.3.11. OFFENSES AGAINST THE EFFICIENT AND FAIR ADMINISTRATION OF JUSTICE**

### **FALSE ACCUSATIONS BEFORE THE AUTHORITIES.**

**ARTICLE 435. FALSE ALLEGATION.** Whoever under oath reports to the authorities a typical conduct that has not been committed shall incur a prison term of sixteen (16) to thirty-six (36) months and a fine of two point sixty-six (2.66) to fifteen (15) legal monthly minimum wages in force.

**ARTICLE 436. FALSE ALLEGATION AGAINST A DETERMINED PERSON.** Whoever under oath reports a person as the perpetrator or participant of a typical conduct that he or she has not committed or in whose commission he or she has not taken part, shall incur a prison term of sixty-four (64) to one hundred forty-four (144) months and a fine of two point sixty-six (2.66) to thirty (30) legal monthly minimum wages in force.

**ARTICLE 437. FALSE SELF-ACCUSATION.** Whoever declares before an authority that he or she is the perpetrator or participant of a typical conduct that he or she has not committed, or in whose commission he or she has not taken part, shall incur a prison term of sixteen (16) to thirty-six (36) months and a fine of two point sixty-six (2.66) to fifteen (15) legal monthly minimum wages in force. Whoever declares before an authority that he or she is the perpetrator or participant of a typical conduct that he or she has not committed, or in whose commission he or she has not taken part, shall incur a prison term of sixteen (16) to thirty-six (36) months and a fine of two point sixty-six (2.66) to fifteen (15) legal monthly minimum wages in force.

**ARTICLE 438. AGGRAVATING CIRCUMSTANCES.** If for the purposes described in the preceding articles the agent simulates evidence, the respective penalties shall be increased by up to one third, provided that this conduct by itself does not constitute another crime.

**ARTICLE 439. QUALITATIVE REDUCTION OF PENALTY IN CASE OF MINOR OFFENSE.** In the case of a minor offense, the penalties indicated in the preceding articles shall be a fine, which in no case may be less than one unit.

**ARTICLE 440. MITIGATING CIRCUMSTANCES.** The penalties provided for in the preceding articles shall be reduced by one third to one half if before the expiration of the last procedural opportunity for the taking of evidence, the perpetrator retracts the false allegation.

## **OMISSION TO REPORT A CRIME**

**ARTICLE 441. OMISSION TO REPORT A CRIME.** Whoever having knowledge of the commission of a crime of genocide, forced displacement, torture, forced disappearance, homicide, kidnapping for ransom or extortion, drug trafficking, trafficking of toxic drugs, narcotics or psychotropic substances, terrorism, financing of terrorism and administration of resources related to terrorist activities, illicit enrichment, front man, money laundering, any of the conducts contemplated in Title II and Chapter IV of Title IV of this book, in the latter case when the victim is a minor, fails to report it immediately to the authority without cause shall incur imprisonment from three (3) to eight (8) years.

ARTICLE 444. BRIBERY. Whoever delivers or promises money or any other benefit to a witness so that the latter gives untruthful or totally or partially false testimony shall incur a prison term of six (6) to twelve (12) years and a fine of one hundred (100) to one thousand (1,000) wages.

**ARTICLE 444-A. BRIBERY IN CRIMINAL PROCEEDINGS.** Whoever, for his or her own or another's benefit, delivers or promises money or any other benefit to a person who was a witness of a criminal act, so that the latter refrains from testifying or fails to tell the truth or totally or partially conceals it, shall incur a prison term of six (6) to twelve (12) years and a fine of fifty (50) to two thousand (2,000) legal monthly minimum wages in force.

## **CONCEALMENT**

**ARTICLE 446. AIDING AND ABETTING.** Whoever has knowledge of the commission of the punishable conduct, and without prior agreement, helps to evade the action of the authority or to hinder the corresponding investigation, shall incur a prison term of sixteen (16) to seventy-two (72) months.

If the conduct is carried out with respect to the crimes of genocide, forced disappearance, torture, forced displacement, homicide, extortion, illicit enrichment, extortive kidnapping, trafficking in drugs, narcotics or psychotropic substances, the penalty shall be sixty-four (64) to two hundred sixteen (216) months' imprisonment. In the case of minor offenses, a fine shall be imposed.

## **PROCEDURAL FRAUD AND OTHER INFRACTIONS**

**ARTICLE 453. PROCEDURAL FRAUD.** Whoever by any fraudulent means induces a public servant into error to obtain a judgment, resolution or administrative act contrary to the law shall incur a prison term of six (6) to twelve (12) years, a fine of two hundred (200) to one thousand (1,000) legal monthly minimum wages in force and disqualification from the exercise of public rights and duties for five (5) to eight (8) years.

**ARTICLE 454. FRAUD AGAINST A JUDICIAL OR ADMINISTRATIVE POLICE RESOLUTION.** Whoever by any means evades compliance with the obligation imposed in a judicial or administrative police resolution shall incur a prison term of one (1) to four (4) years and a fine of five (5) to fifty (50) legal monthly minimum wages in force.

## **2.4. ACT 1474 OF 2011 "WHEREBY REGULATIONS ARE ISSUED TO STRENGTHEN THE MECHANISMS FOR THE PREVENTION, INVESTIGATION AND PUNISHMENT OF ACTS OF CORRUPTION AND THE EFFECTIVENESS OF THE CONTROL OF PUBLIC ADMINISTRATION."**

**ARTICLE 34, ADMINISTRATIVE SANCTIONING LIABILITY AGAINST LEGAL ENTITIES AND BRANCHES OF FOREIGN COMPANIES.** Independently of the individual criminal liabilities that may be applicable and the measures contemplated in Article 91 of Act 906 of 2004, a regime of administrative sanctioning liability shall be applied to legal entities, branches of foreign companies, legal entities that integrate temporary unions or consortiums, industrial and commercial companies of the State and mixed economy companies and non-profit entities, based in Colombia, when the following assumptions occur:

(i) There is an enforceable criminal conviction or firm opportunity principle against any of its administrators or officers, for the commission of crimes against public administration, the environment, economic and social order, financing of terrorism and organized crime groups, administration of resources related to terrorist activities and organized crime, those contained in Act 1474 of 2011, or any punishable conduct related to public assets, which have been carried out, directly or indirectly; and (ii) When the legal entity or branch of a foreign company based in Colombia has benefited or sought to benefit, directly or indirectly, from the commission of the punishable conduct committed by its administrators or officers; and (iii) When the legal entity or branch of a foreign company based in Colombia consented or tolerated the commission of the punishable conduct, by action or omission, considering the application of their respective risk controls.

**PARAGRAPH 1.** In cases of transnational bribery, the Superintendence of Corporations shall apply the special administrative sanctioning liability regime provided in Act 1778 of 2016 for that administrative offense.

**PARAGRAPH 2.** In the investigation stage of the offenses set forth in subparagraph i), the state entities possibly harmed may request to implead as civilly liable third parties the legal entities and branches of foreign companies based in Colombia that have allegedly participated in the commission of the offenses.

(Amended by Art. 35 of Act 1778 of 2016).

(Amended by Art. 2 of Act 2195 of 2022).

## **2.5. ACT 1778 OF 2016 “WHEREBY RULES ARE ISSUED ON THE LIABILITY OF LEGAL ENTITIES FOR ACTS OF TRANSNATIONAL CORRUPTION AND OTHER PROVISIONS ARE ISSUED IN THE FIGHT AGAINST CORRUPTION.”**

**ARTICLE 2. ADMINISTRATIVE LIABILITY OF LEGAL ENTITIES.** The legal entities that, through one or more: (i) employees, (ii) contractors, (iii) administrators, or (iv) associates, of their own or of any of their subsidiary legal entities, give, offer, or promise, to a foreign public servant, directly or indirectly: (i) sums of money, (ii) any object of monetary value or (iii) any other benefit or advantage, in exchange for the foreign public servant to perform, omit, or delay any act related to the exercise of their duties and in relation to an international business or transaction.

Such persons shall be administratively sanctioned under the terms established by this law, without prejudice to the criminal liability of the legal representative of the legal entity.

The entities that have the quality of parent companies, according to the regime provided in Act 222 of 1995, as amended, shall be liable and shall be sanctioned in the event that one of their subsidiaries incurs in any of the conducts set forth in the first paragraph of this Article, with the consent or tolerance of the parent company.

Subsidiaries shall also be liable and sanctioned when their (i) parent company or (ii) any other legal entity that is part of the same corporate group or that is directly or indirectly controlled by the parent company, incurs in any of the conducts set forth in the first paragraph of this Article, for the benefit of the subsidiaries.

**PARAGRAPH 1.** For the purposes of the provisions of this Article, a foreign public servant is considered to be any person holding a legislative, administrative or judicial position in a State, its political subdivisions or local authorities, or a foreign jurisdiction, regardless of whether the individual has been appointed or elected.

A foreign public servant is also considered to be any person who exercises a public function for a State, its political subdivisions or local authorities, or in a foreign jurisdiction, whether within a public agency, a State enterprise or an entity whose decision-making power is subject to the will of the State, its political subdivisions or local authorities, or a foreign jurisdiction. In addition, it shall be understood that any official or agent of a public international organization also holds such quality.

**PARAGRAPH 2.** The provisions of this Act for legal entities shall be extended to the branches of companies operating abroad, as well as to industrial and commercial enterprises of the State, companies in which the State has participation and mixed economy companies.

**PARAGRAPH 3.** The provisions of this Article do not apply when the conduct has been carried out by an associate who does not have control of the legal entity.

# ANNEX 3

## REGULATORY ENVIRONMENT APPLICABLE TO COSTA RICA

### 3. REGULATORY ENVIRONMENT APPLICABLE TO COSTA RICA

#### 3.1. PRELIMINARY CONSIDERATIONS

This chapter includes the Costa Rican criminal and administrative provisions that are comparable to the offenses described in Italian Decree 231 of 2001 and that are part of the Criminal Risk Prevention Model. Any rule that regulates, adds, amends, modifies, replaces or repeals the regulation related herein will be part of the country's regulatory environment.

#### 3.2. LIABILITY OF LEGAL ENTITIES IN COSTA RICA

In Costa Rica, legal entities shall be criminally liable for acts of corruption, as established in Act No. 9699 of 2019 on Liability of Legal Entities for Domestic Bribery, Transnational Bribery and Other Offenses.

#### 3.3. CRIMES PROVIDED FOR IN THE COSTA RICAN CRIMINAL CODE (ACT 4573 OF 1970)

##### 3.3.1. CRIMES AGAINST LIBERTY

**ARTICLE 189. KIDNAPPING.** Whoever reduces a person to servitude or to another analogous condition or keeps him in it, shall be punished with imprisonment of four to twelve years.

**ARTICLE 189 BIS. FORCED LABOR OR SERVICES.** Whoever induces, maintains or subjects one or more persons to perform labor or services under force, deception, coercion or threat shall be punished with imprisonment of six to ten years. The penalty of imprisonment shall be eight to sixteen years if the victim is a person under eighteen years of age or is in a situation of vulnerability or disability. In no case shall the consent granted by the victim exempt from criminal liability.

**ARTICLE 190. CONCEALMENT OF DETAINEES BY AUTHORITIES.** The authorities who order and the agents who carry out the concealment of a detainee, refuse to present him or her to the respective Court or in any other way circumvent the guarantee of Article 37 of the Constitution, shall incur the same penalty and in addition the loss of their job, position or commission or the disqualification to exercise it from six months to two years.

**ARTICLE 193. COERCION.** Whoever by means of serious threat or physical or moral violence compels a person to do, not to do or tolerate something to which he or she is not obligated, shall be punished with imprisonment of three to five years.



### 3.3.2. CRIMES AGAINST THE SCOPE OF PRIVACY

**ARTICLE 195. VIOLATION OF CORRESPONDENCE OR COMMUNICATIONS.** Whoever, with danger or damage to the intimacy or privacy of another, and without his or her authorization, seizes, accesses, modifies, alters, changes, suppresses, intercepts, interferes, opens, delivers, sells, forwards or diverts from its destination documentation or communications addressed to another person, shall be punished with imprisonment from one to three years. The same penalty indicated in the preceding paragraph shall be imposed on whomever, with danger or damage to the privacy of another, uses or disseminates the content of private communications or documents that lack public interest. The same penalty shall be imposed on whomever promotes, incites, instigates, promises or pays a financial benefit to a third party to execute the conducts described in the two preceding paragraphs. The penalty shall be from two to four years of imprisonment if the conducts described in the first paragraph of this article are carried out by:

- a) Persons in charge of the collection, delivery or safeguarding of documents or communications.
- b) Persons in charge of administering or supporting the computer or telematic system or network, or who, by reason of their functions, have access to such system or network, or to electronic, optical or magnetic containers.

**ARTICLE 196 BIS. VIOLATION OF PERSONAL DATA.** Whoever, for his or her own or another's benefit, with danger or damage to privacy or intimacy and without the authorization of the data subject, seizes, modifies, interferes with, accesses, copies, transmits, publishes, disseminates, collects, disables, intercepts, retains, holds, sells, purchases, diverts for a purpose other than that for which it was collected or gives unauthorized treatment to images or data of an individual or legal entity stored in computer or telematic systems or networks, or in electronic, optical or magnetic containers, shall be punished with imprisonment from one to three years. The penalty shall be two to four years' imprisonment when the conducts described in this rule:

- a) Are carried out by persons in charge of administering or supporting the computer or telematic system or network, or who, by reason of their functions, have access to such system or network, or to electronic, optical or magnetic containers.
- b) The violated information corresponds to a minor or legally incompetent person.
- c) The conduct affects data revealing the ideology, religion, beliefs, health, racial origin, preference or sexual life of a person.

The publication, dissemination or transmission of information of public interest, public documents, data contained in public records or public databases of unrestricted access when it has been accessed in accordance with the procedures and limitations of law does not constitute a crime.

The collection, copying and use by the financial entities supervised by the General Superintendence of Financial Institutions of information and data contained in databases of legitimate origin in accordance with the procedures and limitations of law does not constitute a crime either.

**ARTICLE 197. THEFT, DIVERSION OR SUPPRESSION OF CORRESPONDENCE.** Whoever takes possession of a letter or other private document, even if it is not sealed, or whoever suppresses or diverts from its destination a correspondence not addressed to him or her, shall be punished with imprisonment from one to three years.

**ARTICLE 198. UNDUE CAPTURE OF VERBAL MANIFESTATIONS.** Whoever records, without consent, the words of another or others, not intended for the public, or whoever, by means of technical procedures, listens to private statements that are not addressed to him or her, shall be punished with imprisonment of one to three years, except as provided for in the Search, Seizure and Examination of Private Documents and Interception of Communications Act. The same penalty shall be imposed on whomever installs devices, instruments, or parts thereof, for the purpose of intercepting or impeding oral or written communications, whether or not they achieve their purpose.

**ARTICLE 201. IMPROPER USE OF CORRESPONDENCE.** Whoever improperly uses in any form letters, papers, recordings, telegraphic, telephonic, cablegraphic or otherwise that have been stolen or reproduced, shall be punished with imprisonment from six months to one year.

**ARTICLE 202. DISCLOSURE.** Whoever, being legitimately in possession of correspondence, papers or recordings not intended for publicity, makes them public without due authorization, even if they have been addressed to him or her, shall be punished with thirty to sixty days' fine, if the event could cause damage. The penalty shall be a fine of thirty to one hundred days if the information disclosed is of a private nature, even if it does not cause damage.

**ARTICLE 203. DISCLOSURE OF SECRETS.** Whoever, having knowledge by reason of his or her status, office, employment, profession or art, of a secret whose disclosure may cause harm, discloses it without cause, shall be punished with imprisonment from one month to one year or from thirty to one hundred days' fine. In the case of a public official or a professional, disqualification shall also be imposed for the exercise of public positions and offices, or titular professions, from six months to two years. The penalty shall be from four to six years of imprisonment in the case of information of the entities or companies supervised by the superintendencies of the National Financial System, or of the clients of such entities or companies, when such information is protected by secrecy, confidentiality or prohibition of disclosure. If the disclosure is made by a public official or professional, in addition to the penalty indicated in this paragraph, disqualification shall be imposed for the exercise of public or professional positions and offices for one to three years.

### **3.3.3. CRIMES AGAINST PROPERTY**

**ARTICLE 216. FRAUD.** Whoever induces or maintains another person in error, by means of the simulation of false facts or by means of the distortion or concealment of true facts, using them to obtain an unlawful financial benefit for him or herself or for a third party, injures the assets of others, shall be punished as follows:

1. With imprisonment from two months to three years, if the amount does not exceed ten times the base salary.
2. With imprisonment from six months to ten years, if the amount amount exceeds ten times the base salary.

The preceding penalties shall be increased by one third when the aforementioned acts are committed by a person who is the attorney-in-fact or administrator of a company that obtains, totally or partially, its resources from the savings of the public, or by a person who, personally or through a registered or unregistered entity, of any nature, has obtained its resources, totally or partially, from the savings of the public.

**ARTICLE 217. FRAUD:** The penalty set forth in the preceding article shall be imposed according to the amount defrauded, in the following cases:

- 1) Whoever, receiving a consideration, sells or encumbers litigious property, or seized or encumbered property, keeping silent or concealing such circumstance;
- 2) Whoever renders impossible, uncertain or litigious the right to an asset or the performance of an obligation relating thereto, granted to another for a price or as security, either by any legal act relating to the same asset, even if it does not involve disposition, or by removing, concealing or damaging it;
- 3) The owner of a movable property who deprives its use by another who has it legitimately in his or her possession, or damages or renders it unusable, thus frustrating, in whole or in part, the right of another. The same penalty shall be applicable to a third party who acts with the consent and for the benefit of the owner; and 4) The debtor, custodian or owner of a seized or pledged property who abandons, deteriorates or destroys it, with the intention of harming the seizer or creditor, or who, after being warned, does not present it before the judge.

**ARTICLE 217 BIS. COMPUTER FRAUD.** A prison term of three to six years shall be imposed on anyone who, to the detriment of an individual or legal entity, manipulates or influences the entry, processing or result of the data of an automated information system, either by using false or incomplete data, the improper use of data, programming, using any computer operation or technological device, or by any other action that affects the processing of the system data or results in false, incomplete or fraudulent information, using any computer operation or technological artifice, or by any other action that affects the processing of the data of the system or that results in false, incomplete or fraudulent information, with which he or she seeks or obtains a financial or undue benefit for him or herself or for another.

The penalty shall be from five to ten years of imprisonment if the conducts are committed against public information systems, banking and financial entity information systems, or when the perpetrator is an employee in charge of administering or supporting the computer or telematic system or network, or who by reason of his or her duties has access to said system or network, or to the electronic, optical or magnetic containers.

**ARTICLE 218. SIMULATION FRAUD.** The penalty indicated in article 216 shall be imposed, depending on the amount, on whomever, to the detriment of another in order to obtain any undue benefit, makes a simulated contract, act, management or judicial writing, or exceeds false receipts or becomes the surety of a debt and has previously had him or herself seized, for the purpose of evading the payment of the bond.

**ARTICLE 219. FRAUD IN THE DELIVERY OF THINGS.** The penalty indicated in Article 216 shall be imposed, in accordance with the amount of the damage, on whomever defrauds in the substance, quality or quantity of the things to be delivered or of the materials to be used, in the case of precious stones or metals, archaeological or artistic objects, or objects subject to official control.

**ARTICLE 220. INSURANCE FRAUD.** Whoever, with the purpose of obtaining for him or herself or for another the undue collection of an insurance or other illegal benefit, destroys, damages or makes an insured thing disappear shall be punished with imprisonment from six months to three years and with a thirty to one hundred day's fine. If he or she succeeds in his or her purpose, the penalty shall be that contemplated in Article 223. The same penalties shall apply to the insured who with the same purpose causes an injury or aggravates the consequences of injuries caused by a misfortune.

**ARTICLE 221. CHECK FRAUD.** The penalty established in article 216 shall be imposed, according to the defrauded amount, on whomever determines a benefit by giving in payment a bad check, or whose payment is frustrated by an action deliberately or foreseen by him or her when delivering the check.

**ARTICLE 222. FRAUDULENT ADMINISTRATION.** The penalty established in article 216 shall be imposed, according to the defrauded amount, on whomever, for any reason, being in charge of the management, administration or care of the property of others, harms its owner by altering in his or her accounts the prices or conditions of the contracts, assuming operations or expenses, exaggerating those he or she has made, hiding or withholding values or abusively or unduly using them.

**ARTICLE 223. UNDUE APPROPRIATION AND RETENTION.** The penalty established in article 216 shall be imposed, according to the amount of what was appropriated or retained, on whomever, having under his or her power or custody a movable thing or a value belonging to another, by a Title that produces the obligation to deliver or return, appropriates it or does not deliver or return it in due time, to the detriment of another.

If there is no appropriation but misuse of the thing, to the detriment of another, the penalty shall be reduced, at the judge's discretion.

In any case, the accused shall be previously warned by the authority hearing the matter, so that, within a term of five days, he or she returns or delivers the property, and if he or she does so, there shall be no crime, and the civil actions of the owner shall be saved.

**ARTICLE 224. IRREGULAR APPROPRIATION.** The following shall be punished with ten to one hundred days' fine:

- 1) Whoever appropriates a lost thing belonging to another without complying with the requirements prescribed by law;
- (2) Whoever appropriates a thing belonging to another whose possession he or she has gained as a result of an error or fortuitous event; and
- (3) Whoever appropriates in whole or in part a discovered treasure, without delivering the portion that corresponds to the owner of the property, in accordance with the law.

**ARTICLE 225. USURPATION.** Imprisonment from six months to four years shall be imposed on:

(1) Whomever by violence, threats, deceit, abuse of trust or secrecy dispossesses another, totally or partially, of the possession or tenancy of real property or of the exercise of a real right constituted thereon, whether the dispossession occurs by invading the property, remaining thereon or expelling the occupants.

2) Whomever, in order to take possession of all or part of a real property, alters the terms or limits thereof.

3) Whomever, with violence or threats, disturbs the possession or tenancy of a real property.

**ARTICLE 226. USURPATION OF WATER.** A prison term of one month to two years and a fine of ten to one hundred days shall be imposed on whomever, for the purpose of profit:

1) Diverts in his or her favor public or private waters that do not correspond to him or her or takes them in greater quantity than that to which he or she is entitled; and.

(2) In any way hinders or impedes the exercise of the rights of a third party over such waters.

**ARTICLE 227. PUBLIC DOMAIN.** The following shall be punished with imprisonment from six months to four years or with a fine of fifteen to one hundred days:

1) Whoever without Title of acquisition or without the right to possess, holds land or space corresponding to streets, roads, gardens, parks, promenades or other places of public domain, or vacant land or any other real property of the State or of the municipalities.

2) Whoever, without legal authorization, exploits a national forest.

3) Whoever, without a title, exploits veins, deposits, mantles and other mineral deposits.

4) Whoever, making use of free concessions granted by law for the benefit of agriculture, has entered into possession of a vacant land, by virtue of a claim, and after exploiting the respective forest, abandons said claim.

**ARTICLE 228. DAMAGE.** Whoever destroys, renders useless, makes disappear or damages in any way, totally or partially, a thing belonging to another shall be punished with imprisonment from fifteen days to one year, or with ten to one hundred days' fine.

**ARTICLE 229. AGGRAVATED DAMAGE.** Imprisonment from six months to four years shall be imposed:

1) If the damage is done to things of scientific, artistic, cultural or religious value, when, due to the place where they are located, they are in the public trust, or destined to the service, benefit or reverence of an undetermined number of persons.

(2) When the damage falls on means or channels of communication or transit, on bridges or canals, on water, electricity or energy production plants or conduits.

3) When the act is carried out with violence to persons or threats.

4) When the act is committed by three or more persons.

5) When the damage is against police equipment.

6) When the damage is caused to computer, telematic or electronic networks, systems or equipment, or their physical, logical or peripheral components.

**ARTICLE 229 BIS. COMPUTER DAMAGE.** A prison sentence of one to three years shall be imposed on anyone who, without the authorization of the owner or exceeding the authorization granted to him or her and to the detriment of a third party, deletes, modifies or destroys the information contained in a computer or telematic system or network, or in electronic, optical or magnetic containers.

The penalty shall be three to six years' imprisonment, if the information deleted, modified or destroyed is irreplaceable or irretrievable.

**ARTICLE 229 TER. COMPUTER SABOTAGE.** A prison sentence of three to six years shall be imposed on anyone who, for his or her own or another's benefit, destroys, alters, hinders or renders useless the information contained in a database, or prevents, alters, hinders or modifies without authorization the operation of an information processing system, its physical or logical parts or components, or a computer system.

The penalty shall be four to eight years' imprisonment when:

a) As a consequence of the perpetrator's conduct, collective danger or social harm ensues.

b) The conduct is carried out by an employee in charge of administering or supporting the computer or telematic system or network, or who by reason of his functions has access to such system or network, or to electronic, optical or magnetic containers.

c) The computer system is of a public nature or the information is contained in public databases.

d) Without being authorized to do so, uses technological means that prevent authorized persons from lawfully accessing the telecommunications systems or networks.

**ARTICLE 230. IDENTITY THEFT.** Whoever impersonates the identity of an individual or legal entity or a trademark in any social network, Internet site, electronic or technological means of information shall be punished with imprisonment of one to three years.

**ARTICLE 231. COMPUTER ESPIONAGE.** A prison term of three to six years shall be imposed on anyone who, without the authorization of the owner or person responsible, using any computer or technological manipulation, seizes, transmits, copies, modifies, destroys, uses, blocks or recycles information of value for the economic traffic of industry and trade.

**ARTICLE 232. INSTALLATION OR PROPAGATION OF MALWARE.** Whoever without authorization, and by any means, installs malware in a computer or telematic system or network, or in electronic, optical or magnetic containers shall be punished with imprisonment from one to six years.

The same penalty shall be imposed in the following cases:

- a) Whoever misleads a person to install malware in a computer or telematic system or network, or in electronic, optical or magnetic containers, without due authorization.
- b) Whoever, without authorization, installs malware in legitimate Internet sites, with the purpose of turning them into suitable means to propagate malware, known as attacking Internet sites.
- c) Whoever, in order to spread malware, invites others to download files or visit Internet sites that allow the installation of malware.
- d) Whoever distributes software designed for the creation of malware.
- e) Whoever offers, hires or provides services of denial of services, sending unsolicited mass communications, or propagation of malware.

The penalty shall be three to nine years of imprisonment when the malware:

- i) Affects a bank, financial institution, savings and credit cooperative, solidarity association or state entity.
- ii) Affects the operation of public services.
- iii) Obtains remote control of a system or a computer network to form part of a zombie computer network.
- iv) Is designed to carry out actions aimed at obtaining a financial benefit for him or herself or for a third party.
- v) Affects health information systems and the impact on these may endanger the health or life of people.
- vi) Has the capacity to reproduce itself without the need for additional intervention by the legitimate user of the computer system.

**ARTICLE 233. WEBSITE SPOOFING.** A prison sentence of one to three years shall be imposed on whomever, to the detriment of a third party, spoofs legitimate websites.



The penalty shall be three to six years of imprisonment when, as a consequence of the spoofing of the legitimate website and by means of deception or by causing error, captures confidential information of an individual or legal entity for his or her own or another's benefit.

**ARTICLE 234. FACILITATION OF COMPUTER CRIME.** A prison sentence of one to four years shall be imposed on whomever facilitates the means for the commission of a crime carried out by means of a computer or telematic system or network, or electronic, optical or magnetic containers.

**ARTICLE 236. DISSEMINATION OF FALSE INFORMATION.** Whoever, through electronic or computer means or by means of a telecommunications system, propagates or disseminates false news or facts capable of distorting or causing damage to the security and stability of the financial system or its users, shall be punished with three to six years of imprisonment.

### 3.3.4. CRIMES AGAINST GOOD FAITH IN BUSINESS

**ARTICLE 238. FRAUDULENT BANKRUPTCY.** A prison term of two to six years and disqualification from doing business for three to ten years shall be imposed on a merchant declared bankrupt who, in fraud of his creditors, has incurred in any of the following acts:

- 1) Simulating or supposing debts, disposals, expenses, losses or credits;
- 2) Removing or concealing assets that correspond to the estate or not to justify their removal or disposal;
- 3) Granting undue advantages to any creditor; and
- 4) Having stolen, destroyed or falsified in whole or in part the books or other accounting documents, or having kept them in such a way as to make impossible the reconstruction of the equity or the movement of the business.

**ARTICLE 239. NEGLIGENT BANKRUPTCY.** Imprisonment from six months to two years, and disqualification from doing business from one to five years shall be imposed on a merchant declared bankrupt who has determined his or her own insolvency and harmed his or her creditors by his or her excessive expenses in relation to the capital, ruinous speculations, gambling, abandonment of business or any other act of negligence or manifest recklessness.

**ARTICLE 240. LIABILITY OF LEGAL REPRESENTATIVES.** The following shall be punished with the penalties contemplated in the two preceding articles and when they are charged with the acts contemplated therein: directors, administrators, managers, attorneys-in-fact or liquidators of business companies declared bankrupt, as well as guardians or curators who do business on behalf of minors or legal incompetent persons.

**ARTICLE 241. FRAUDULENT INSOLVENCY.** A non-trading debtor in civil bankruptcy who, in order to defraud his creditors, has committed or commits any of the acts referred to in Article 231, shall be punished with imprisonment from one to four years.

**ARTICLE 242. MALICIOUS COLLUSION.** The creditor who consents to a compromise, agreement or judicial transaction in collusion with the debtor or with a third party and has arranged special advantages in the event of acceptance of the compromise, agreement or transaction shall be punished with imprisonment of three months to two years or sixty to one hundred fifty days' fine. The same penalty shall apply to the debtor or to the persons referred to in Article 233 who conclude such an agreement.

**ARTICLE 243. USURY.** Whoever, taking advantage of the need, lightness or inexperience of a person, makes him give or promise any monetary advantage evidently disproportionate to his or her benefit, or grant extortionate guarantees, shall be punished with imprisonment from six months to two years or with twenty to eighty days' fine. The same penalty is applicable to anyone who knowingly acquires or enforces a usurious loan.

The penalty shall be from nine months to three years or from thirty to one hundred days' fine when the crime is committed by whoever, being habitually engaged in the business of lending or leasing money with personal or pledge guarantee, on wages or salaries, does not keep accounting books in accordance with the legal requirements or does not submit for registration in the Register of Pledges, in cases in which these are constituted in a public document or in which the creditor does not waive the pledge privilege, the document recording the operation within a period not exceeding sixty days after the date on which the contract was executed.

**ARTICLE 245. AGIOTAGE.** The person who, with the purpose of obtaining an immoderate profit for him or herself or for a third party, tries to raise or lower the price of merchandise, values or rates by means of feigned negotiations, false news, hoarding, destruction of products or by means of agreements with other producers, holders or businessmen shall be punished with imprisonment from six months to three years or with thirty to one hundred days' fine.

The penalty shall be increased by one third if the alteration of prices is achieved, and by double in the case of foodstuffs of prime necessity, whether or not the alteration of their prices is achieved. The legal entity responsible for any of the offenses included in this section shall be subject to a security measure consisting of the closing of the establishment for a term of five to thirty days.

The intermediary in said crimes shall be considered as an accomplice.

**ARTICLE 247. PUBLICATION AND AUTHORIZATION OF FALSE BALANCE SHEETS.** The founder, director, administrator, manager, attorney-in-fact, trustee or representative of a business or cooperative company or other commercial establishment who knowingly publishes or authorizes a false or incomplete balance sheet, profit and loss account or the corresponding reports, shall be punished with imprisonment for a term of six months to two years. The penalty may be increased up to double the term in the case of an entity that makes a public offering of securities.

**ARTICLE 248. AUTHORIZATION OF UNDUE ACTS.** The director, administrator, manager or attorney-in-fact of a business or cooperative company who knowingly gives his or her assistance or consent to acts contrary to the law or the bylaws, from which may derive some damage to his or her principal or to the public, shall be punished with imprisonment from six months to two years. The penalty may be increased up to double the term in the case of a person who makes a public offering of securities.

**ARTICLE 249. UNFAIR ADVERTISING.** Whoever, by fraudulent machinations, malicious suspicions or any means of disloyal propaganda, attempts to divert the clientele of a commercial or industrial establishment for his or her own or another's benefit shall be punished with thirty to one hundred days' fine.

**ARTICLE 250. ISSUANCE OF BAD CHECKS.** Whoever draws a check shall be punished with imprisonment from six months to three years, or with a sixty to one hundred days' fine, if the following circumstances concur and the event does not constitute the crime contemplated in Article 221:

- 1) If he or she draws the check without having provision of funds or express authorization of the bank, and if it is drawn for overdraft;
- 2) If he or she gives a countermand of payment, outside the cases in which the law authorizes it;
- 3) If he or she draws the check knowing that, at the time of presenting it, it cannot be legally paid.

In any case, the drawer must be personally informed of the lack of payment, by notarial act, or through the authority in charge of the process. He or she shall be exempted from the penalty if he or she pays the amount of the check within five days following the notice.

**ARTICLE 251. MANIPULATION OF MARKET PRICES.** Whoever, with the intention of obtaining a benefit for him or herself or for a third party, or of harming another market participant, causes the price of negotiable securities to rise, fall or be maintained on the stock exchange, by means of the affirmation or simulation of false facts or circumstances or the distortion or concealment of true facts or circumstances, in such a way as to induce error as to the essential characteristics of the investment or the issues, shall be punished with imprisonment of three to eight years.

**ARTICLE 252. USE OF PRIVILEGED INFORMATION.** A prison sentence of three to eight years shall be imposed on anyone who, knowing privileged information relating to securities negotiable on the stock exchange, their issuers or relating to the securities markets, acquires or disposes, by him or herself or through a third party, securities of said issuers for the purpose of obtaining an undue benefit for himself or herself or for a third party. For the purposes of this article, privileged information is considered to be that which by its nature may influence the prices of the securities issued and which has not yet been made public.

### 3.3.5. CRIMES AGAINST COMMON SAFETY

**ARTICLE 253 BIS. ATTACK WITH CHEMICAL OR RADIOACTIVE MATERIALS.** Whoever creates a common danger to persons or property by means of the emission, propagation or impact of toxic or dangerous substances or chemicals, agents or toxins of a biological nature or similar substances or radiations of radioactive material shall incur the penalties provided for in Article 246.

**ARTICLE 279 BIS. CRUELTY TO ANIMALS.** Whoever directly or through an intermediary carries out any of the following conducts shall be punished with imprisonment from three months to one year:

- a) Causes harm to a domestic or domesticated animal, which causes a persistent weakening in its health or implies the loss of a sense, an organ, a member, or makes it impossible for it to use an organ or a member, or causes it suffering or intense pain, or prolonged agony.
- b) Performs sexual acts with animals. Sexual act shall mean the sexual intercourse of a person with an animal, i.e., oral, anal or vaginal acts of penetration.
- c) Practice vivisection of animals for purposes other than research.

Domestic animal shall be understood as any animal that, due to its evolutionary and behavioral characteristics, coexists with human beings. Domesticated animal shall be understood as any animal that has changed its wild condition through the efforts of human beings.

The maximum penalty may be increased by one third when the perpetrator of these acts uses a relationship of power to intimidate, threaten, coerce or subdue one or more persons, as well as when the conduct is committed between two or more persons.

Organizations duly registered in the Judicial Registry may represent the diffuse interests of the animals affected by the conducts described in this standard. 10 to 30 days' imprisonment will be imposed to whomever, without authorization of the competent authorities, impedes, obstructs or hinders, in any way, vehicular traffic or the movement of passersby.

### 3.3.6. CRIMES AGAINST PUBLIC AUTHORITY

**ARTICLE 311. ATTACKS.** Whoever uses intimidation or force against a public official to impose the execution or omission of an act proper to his or her functions shall be punished with imprisonment from one month to three years.

**ARTICLE 312. RESISTANCE.** A prison term of one month to three years shall be imposed on anyone who uses intimidation or violence against a public official or against the person who assists him or her at his or her request or by virtue of a legal duty, to impede or obstruct the execution of an act proper to the legitimate exercise of his functions. The same penalty shall be imposed on whomever uses force against police equipment used by the police authority to carry out its work.

**ARTICLE 314. DISOBEDIENCE.** A prison term of six months to three years shall be imposed on anyone who does not comply or does not enforce, in all its aspects, the order issued by a jurisdictional body or by a public official in the exercise of his functions, provided that it has been personally communicated, except in the case of the arrest itself.

**ARTICLE 316. THREATENING A PUBLIC OFFICIAL.** Whoever threatens a public official because of his or her functions, addressing him or her personally or publicly, or by means of written, telegraphic or telephonic communication or through the hierarchical channel, shall be punished with imprisonment from one month to two years.

**ARTICLE 319. VIOLATION OF SEALS.** Whoever violates the seals placed by the authority on a thing shall be punished with imprisonment from three months to two years.

If the person responsible is a public official and has committed the act with abuse of his office, the maximum penalty shall be increased to three years.

**ARTICLE 320. VIOLATION OF THE CUSTODY OF THINGS.** Whoever steals, conceals, destroys or renders useless objects intended to serve as evidence before the authority, records or documents entrusted to the custody of an official or other person, in the interest of public service, shall be punished with imprisonment of six months to four years.

### 3.3.7. CRIMES AGAINST THE ADMINISTRATION OF JUSTICE

**ARTICLE 323. FALSE WITNESS.** A witness, expert, interpreter or translator who affirms a falsehood or denies or conceals the truth, in whole or in part, in his deposition, report, interpretation or translation, made before the competent authority, shall be sentenced to one to five years' imprisonment.

If the false testimony is committed in a criminal case, to the detriment of the accused, the penalty shall be from two to eight years' imprisonment.

The preceding penalties shall be increased by one third when the false testimony is committed by means of bribery.

**ARTICLE 324. BRIBERY.** A prison term of six months to three years shall be imposed on whomever offers or promises a gift or any other advantage to one of the persons referred to in the preceding article, to commit false testimony, if the offer or promise is not accepted or, if it is accepted, the false testimony is not committed.

Otherwise, the penalties corresponding to the false witness shall be applicable to the briber.

**ARTICLE 330. RECEIVING.** Whoever acquires, receives and conceals money, things or goods originating from a crime in which he or she did not participate, or intervenes in its acquisition, reception or concealment, shall be punished with imprisonment from six months to five years and with twenty to sixty days' fine.

The respective security measure shall be applied when the perpetrator makes receiving a practice that implies professionalism.

**ARTICLE 331. RECEIVING THINGS OF SUSPICIOUS ORIGIN.** Whoever, without a promise prior to the crime, receives things or goods that, according to the circumstances, should be presumed to be the proceeds of a crime, shall be punished with imprisonment from six months to four years. If the perpetrator makes it a regular traffic, the respective security measure shall be imposed.

**ARTICLE 332. REAL FAVORING.** Whoever, without a promise prior to the crime, but after its execution, procures or helps someone to achieve the disappearance, concealment or alteration of the traces, evidence or instruments of the crime or to secure the proceeds or benefit thereof, shall be punished with imprisonment from three months to four years.

This provision does not apply to the person who, in any way, has participated in the crime; nor to the person who incurs in the act of negligent evasion.

**ARTICLE 336. VIOLATION OF DISQUALIFICATION.** Whoever violates a judicially imposed disqualification shall be punished with imprisonment from six months to two years.

### **3.3.8. CRIMES AGAINST THE DUTIES OF THE PUBLIC OFFICE**

**ARTICLE 338. ABUSE OF AUTHORITY.** The public official who, abusing his or her position, orders or commits any arbitrary act to the detriment of the rights of any person shall be punished with imprisonment from three months to two years.

**ARTICLE 339. BREACH OF DUTIES.** Any public official who illegally omits, refuses to perform or delays any act proper to his or her function shall be punished with disqualification for a term of one to four years. The same penalty shall be imposed on the public official who unlawfully fails to abstain, refrains or excuses himself from carrying out a step, matter or procedure, when he or she is obligated to do so.

**ARTICLE 346. DISCLOSURE OF SECRETS.** The public official who discloses facts, actions or documents, which by law must remain secret, shall be punished with imprisonment from three months to two years.

**ARTICLE 347. IMPROPER PASSIVE BRIBERY.** Any public official who, by him or herself or through an intermediary, receives a gift or any other undue advantage or accepts the promise of a payment of this nature in order to perform an act proper to his or her functions, shall be punished with imprisonment of one to five years. In addition, a fine of up to fifteen times the amount equivalent to the financial benefit obtained or promised shall be imposed.

**ARTICLE 348. PROPER PASSIVE BRIBERY.** Any public official shall be punished with imprisonment of three to eight years and disqualification from the exercise of public office and employment for ten to fifteen years, who by him or herself or through an intermediary receives a gift or any other advantage or accepts the direct or indirect promise of a retribution of that nature to perform an act contrary to his or her duties or to not perform or to delay an act proper to his or her functions. In addition, he or she shall be fined up to thirty times the amount equivalent to the financial benefit obtained or promised.

**ARTICLE 349. AGGRAVATED CORRUPTION.** The lower and upper extremes of the penalties established in Articles 347 and 348 shall be increased by one third when in the facts referred to in these two Articles any of the following aggravating circumstances concur:

1) Such events have as their purpose the granting of public posts, retirements, pensions, the fixing or collection of public rates or prices, the collection of taxes or social security contributions or the execution of contracts or concessions in which the Public Administration is interested.

2) As a consequence of the conduct of the perpetrator, a serious financial damage is caused to the Public Treasury, the provision of public services is deteriorated or damage is caused to the users of these services.

**ARTICLE 350. ACCEPTANCE OF GIFTS FOR AN ACT PERFORMED.** The public official who, without prior promise, accepts a gift or any other undue advantage for an act performed or omitted in his or her capacity as an official, shall be punished, as the case may be, with the penalties established in Articles 347 and 348 reduced by one third. In addition, he or she shall be fined up to ten times the amount equivalent to the financial benefit obtained.

**ARTICLE 351. CORRUPTION OF JUDGES.** In the case of Article 339, the penalty shall be four to twelve years of imprisonment, if the perpetrator is a judge or an arbitrator and the advantage or promise was intended to favor or hurt a party in the processing or resolution of a proceeding, even if it is of an administrative nature.

If the unjust resolution is a criminal sentence of more than eight years of imprisonment, the penalty shall be imprisonment of four to eight years.

**ARTICLE 352. PENALTY OF THE CORRUPTOR.** The penalties established in the five preceding articles shall be applicable to anyone who gives, offers or promises a public official a gift or undue advantage.

**ARTICLE 353. ILLICIT ENRICHMENT.** A six months to two years of imprisonment shall be imposed on the public official who, without incurring in a more severely punishable offense,:

1) Accepts any gift or the promise of a gift to assert the influence derived from his or her position before another official, so that the latter does or fails to do something related to his or her duties;

(2) Uses for his or her own or another's benefit information or data of a confidential nature of which he or she has become aware by reason of his or her office;

3) Admits gifts presented or offered in consideration of his or her office, while he or she remains in the exercise of his or her office.

**ARTICLE 355. EXTORTION.** A prison term of two to eight years shall be imposed on the public official who, abusing his or her position or duties, forces or induces someone to give or promise unduly, for him or herself or for a third party, a good or a financial benefit.

**ARTICLE 356. ILLEGAL EXACTION.** The public official who, abusing his office, demands or makes pay or deliver an undue or greater contribution or fee than those corresponding shall be punished with imprisonment from one month to one year.

**ARTICLE 357. PERVERSION OF JUSTICE.** A prison term of two to six years shall be imposed on any judicial or administrative official who issues resolutions contrary to the law or who bases them on false facts.



In the case of a conviction in a criminal case, the penalty shall be three to fifteen years' imprisonment.

The provisions of the first paragraph of this Article shall be applicable to arbitrators, as applicable.

**ARTICLE 358. UNFAITHFUL REPRESENTATION.** The lawyer or legal representative who harms the interests entrusted to him or her, either by understanding with the other party or in any other way, shall be punished with imprisonment from six months to three years.

**ARTICLE 361. EMBEZZLEMENT.** Any public official who steals or misappropriates money or goods whose administration, collection or custody has been entrusted to him or her by reason of his or her position shall be punished with imprisonment of three to twelve years; in addition, any public official who uses, for his or her own or another's benefit, work or services paid for by the Public Administration or goods owned by it, shall be punished with imprisonment of three months to two years.

This provision shall also be applicable to private individuals and to managers, administrators or attorneys-in-fact of private organizations, beneficiaries, subsidized persons, grantees or concessionaires, with respect to the goods, services and public funds they exploit, safeguard, administer or possess under any Title or modality of management.

**ARTICLE 362. NEGLIGENT FACILITATION OF THEFT.** Any public official who, through negligence, has made possible or facilitated another person to steal the money or goods referred to in the preceding article shall be punished with a fine of thirty to one hundred fifty days.

**ARTICLE 363. MISAPPROPRIATION.** Public officials, private individuals and managers, administrators or attorneys-in-fact of private legal entities, beneficiaries, subsidized persons, grantees or concessionaires who give to the funds, goods, services or funds that they administer, safeguard or exploit by any Title or management modality, an application different from the one for which they were intended, shall be punished with imprisonment of one to eight years. If this results in damage or hindrance of the service, the penalty shall be increased by one third.

**ARTICLE 363 BIS. EMBEZZLEMENT AND MISAPPROPRIATION OF PRIVATE FUNDS.** Those who administer or have custody of property seized, confiscated, deposited or entrusted by a competent authority, belonging to private individuals, shall be subject to the provisions of the three preceding articles.

### **3.3..9. CRIMES AGAINST THE AUTHORITY OF ATTESTATION**

**ARTICLE 366. FORGERY OF PUBLIC AND AUTHENTIC DOCUMENTS.** Whoever makes in whole or in part a false document, public or authentic, or alters a true one, in such a way that damage may result, shall be punished with imprisonment from one to six years.

If the act was committed by a public official in the exercise of his duties, the penalty shall be from two to eight years.

**ARTICLE 367. IDEOLOGICAL FALSEHOOD.** The penalties provided for in the preceding article are applicable to anyone who inserts or causes to be inserted in a public or authentic document false statements concerning a fact that the document must prove, in such a way that damage may result.

**ARTICLE 368. FORGERY OF PRIVATE DOCUMENTS.** A prison term of six months to two years shall be imposed on whomever makes a private document false in whole or in part or forges a true one, in such a way that damage may result.

**ARTICLE 368 BIS. FORGERY OF ACCOUNTING RECORDS.** Whoever with the purpose of committing or concealing any of the crimes contemplated in Article 1 of the Act on Liability of Legal Entities on Domestic Bribery, Transnational Bribery and other Crimes, falsifies, in whole or in part, the Books, physical or computer records, or any other accounting document of a legal entity or individual, shall be punished with imprisonment from one to six years. The same sanction will be applied to the individual who for the same purpose keeps double accounting or accounts not recorded in the accounting books.

**ARTICLE 369. SUPPRESSION, CONCEALMENT AND DESTRUCTION OF DOCUMENTS.** Whoever suppresses, conceals or destroys, in whole or in part, a document in such a way that damage may result, shall be punished with the penalties set forth in the preceding articles, in the respective cases.

**ARTICLE 370. SIMILAR DOCUMENTS.** The person who executes any of the acts punished in said article or in article 360 in a closed will, in a check, whether official or draft, in a bill of exchange, in shares or other documents or credit securities transferable by endorsement or to bearer, shall be punished with the penalties set forth in article 357.

**ARTICLE 372. USE OF FALSE DOCUMENT.** Whoever makes use of a false or forged document shall be punished with one to six years of imprisonment.

**ARTICLE 373. COUNTERFEIT CURRENCY.** Whoever counterfeits or alters legal tender currency, national or foreign, and whoever introduces, issues or puts it into circulation, shall be punished with three to fifteen years' imprisonment.

**ARTICLE 373. COUNTERFEIT CURRENCY.** Whoever counterfeits or alters legal tender currency, national or foreign, and whoever introduces, issues or puts it into circulation, shall be punished with three to fifteen years' imprisonment.

**ARTICLE 376. FORGERY OF SEALS.** Whoever counterfeits official seals, stamped paper, national postage stamps, any kind of stamped objects whose issuance is reserved by law, or authorized lottery tickets, shall be punished with imprisonment from one to six years. The same penalty shall be imposed on whoever knowingly introduces, sells or uses them. In these cases, as well as in the following Articles, the fraudulent impression of the true seal shall be considered forgery.

**ARTICLE 377. FORGERY OF SIGNS AND MARKS.** 1) Whoever forges marks, passwords or signatures officially used to contrast weights or measures, identify any object or certify its quality, quantity or content, and whoever applies them to objects other than those to which they were to be applied, shall be punished with imprisonment from six months to three years. 2) Whoever falsifies tickets of public transportation companies; and 3) Whoever falsifies, alters or suppresses the individualizing numbering of an object, registered in accordance with the law for security or tax reasons.

**ARTICLE 378. FRAUDULENT RESTORATION OF SEALS.** Whoever causes the disappearance of any of the seals, stamps, marks or passwords referred to in the preceding articles, the sign indicating that they have already served or have been used for the purpose of their issuance, shall be sentenced to six months to two years' imprisonment. The same penalty shall be incurred by the person who knowingly uses, causes to be used or offers for sale the unused objects referred to in the preceding paragraph.

### 3.3.10. CRIMES AGAINST HUMAN RIGHTS

**ARTICLE 380. RACIAL DISCRIMINATION.** The person, manager or director of an official or private institution, administrator of an industrial or commercial establishment, who applies any prejudicial discriminatory measure, based on racial considerations, sex, age, religion, marital status, public opinion, social origin or economic situation, shall be sanctioned with a twenty to sixty days' fine. The judge may also impose, as an accessory penalty, the suspension from public offices or positions for a period of not less than fifteen nor more than sixty days.

**ARTICLE 381. CRIMES OF AN INTERNATIONAL NATURE.** A prison term of ten to fifteen years shall be imposed on those who lead or form part of international organizations engaged in trafficking slaves, women or children, drugs and narcotics, commit acts of kidnapping for ransom or terrorism, and violate the provisions of the treaties signed by Costa Rica to protect human rights.

**ARTICLE 383. CHILD TRAFFICKING.** Whoever promotes, facilitates or favors the sale, for any purpose, of a child and receives for him or her any type of payment, gratification, economic reward or of any other nature shall be punished with imprisonment from eight to sixteen years. The same penalty shall be imposed on whomever pays, gratifies or rewards for the purpose of buying the child. Imprisonment shall be from ten to twenty years when the perpetrator is an ascendant or relative up to the third degree of consanguinity or affinity, the person in charge of the guardianship, custody or any person who exercises the representation of the child. The same penalty shall be imposed on the professional or public official who sells, promotes, facilitates or legitimizes, by means of any act, the sale of the child. The professional and the public official shall also be disqualified for the duration of the maximum of the penalty for the exercise of the profession or trade in which the act took place.

### 3.3.11. VIOLATIONS AGAINST THE ENVIRONMENT

**ARTICLE 406.** The following shall be punished with a penalty of ten to two hundred days' fine: Violation of burning site regulations.

1) Whoever violates the regulations relating to the cutting or burning of forests, trees, weeds, stubble or other products of the land, when there is no other express penalty.

Obstruction of ditches or canals (2) Whoever throws into ditches or canals objects that obstruct the flow of water.

Opening or closing pipe faucets 3) Whoever unduly opens or closes pipe faucets, or in any other manner not expressly punished, violates existing water regulations.

Infringement of hunting and fishing regulations 4) Whoever, in any way, infringes the laws or regulations on hunting and fishing, provided that the infringement is not expressly punished in another legal provision.

**ARTICLE 409. INCONVENIENT SMOKE, STEAM OR GAS ESCAPES.** A fine of fifteen to two hundred days shall be imposed on businessmen or industrialists who do not adopt the convenient measures to avoid smoke, steam or gas escapes that cause inconvenience to the public or harm their health, or do not provide for the elimination of contaminating waste from the environment. The same sanction shall be imposed on the owners or lessees of all motor vehicles that do not adopt the necessary measures to prevent the escape of carbon monoxide, fumes and other sources of atmospheric contamination that cause discomfort to the public or harm their health.

### **3.4. ACT 8422 OF 2004 AGAINST CORRUPTION AND ILLICIT ENRICHMENT IN THE PUBLIC SERVICE**

**ARTICLE 46. FALSE SWORN STATEMENT.** Whoever incurs in falsehood, simulation or concealment when making sworn declarations of assets before the Office of the Comptroller General of the Republic shall be punished with imprisonment from six months to one year.

**ARTICLE 47. RECEIVING, LEGALIZATION OR CONCEALMENT OF ASSETS.** Whoever conceals, secures, transforms, invests, transfers, safeguards, administers, acquires or gives the appearance of legitimacy to goods, assets or rights, knowing that they have been the product of illicit enrichment or criminal activities of a public official, committed on account of the position or by the means and opportunities it provides, shall be punished with imprisonment of one to eight years. When the goods, money or rights come from the crime of transnational bribery, the same penalty shall apply to the conduct described above, regardless of the place where the act was committed or whether transnational bribery is criminalized in such place.

**ARTICLE 48. LEGISLATION OR ADMINISTRATION FOR ONE'S OWN BENEFIT.** Imprisonment of one to eight years shall be imposed on the public official who sanctions, enacts, authorizes, subscribes or participates with his or her favorable vote in laws, decrees, agreements, acts and administrative contracts that directly grant benefits for him or herself, his or her spouse, partner, companion or cohabitant, relatives up to the third degree of consanguinity or affinity or for companies in which the public official, his or her spouse, partner, companion or cohabitant, relatives up to the third degree of consanguinity or affinity have a shareholding, either directly or through other legal entities in whose capital stock they participate or are attorneys-in-fact or members of any corporate body.

The same penalty shall apply to whomever favors his or her spouse, partner or cohabitant or relatives up to the third degree of consanguinity or affinity, or him or herself, with financial benefits contained in collective bargaining agreements, in the negotiation of which he or she has participated as representative of the employer.

Article 50.- Falsehood in the receipt of goods and services hired. The public official, the consultant or any of his or her servants, hired by the respective public entity, who commits falsehood or manipulation of information about the execution or construction of a public work, or about the existence, quantity, quality or nature of the goods and services contracted or of the works delivered in concession, with the purpose

of considering the service or the work as received to satisfaction, shall be punished with imprisonment of two to eight years. If such conduct hinders the service provided or makes it impossible for the public entity to use the work or to adequately attend to the needs that the contracted service should meet, the lesser and greater extremes of the penalty shall be increased by one third.

**ARTICLE 51. IRREGULAR PAYMENT OF ADMINISTRATIVE CONTRACTS.** Any public official who authorizes, orders, consents, approves or allows payments, knowing that they are for works, services or supplies not performed or unacceptable because they have been defectively executed or delivered, in accordance with the terms of the contract, or in consideration of unequivocal rules of science or technique, shall be punished with imprisonment of one to three years.

**ARTICLE 52. INFLUENCE PEDDLING.** Imprisonment of two to five years shall be imposed on whomever directly or through an intermediary influences a public servant, taking advantage of his or her position or any other situation derived from his or her personal or hierarchical situation with him or her or with another public servant, whether real or simulated, to make, delay or omit an appointment, award, concession, contract, act or resolution pertaining to his or her duties, so as to generate, directly or indirectly, an undue economic benefit or advantage for him or herself or for a third party.

The same penalty shall be imposed on anyone who uses or offers the influence described in the preceding paragraph.

The extremes of the penalty indicated in the first paragraph shall be increased by one third when the influence comes from the President or Vice President of the Republic, members of the Supreme Powers, or the Supreme Electoral Tribunal, the Comptroller or Deputy Comptroller General of the Republic; the Attorney General or Deputy Attorney General of the Republic, the Inspector General of the Republic, the Ombudsman or Deputy Ombudsman, the hierarchical superior of the person who must resolve or members of political parties that occupy leadership positions at the national level.

**ARTICLE 53. PROHIBITIONS SUBSEQUENT TO SERVICE.** Any public official who, within one year after the execution of an administrative contract greater than or equal to the limit established for public bidding in the entity where he or she rendered services, accepts remunerated employment or participation in the capital stock with the favored individual or legal entity, shall be punished with a fine of one hundred to one hundred fifty days, if he or she participated in any of the phases of the process of design and preparation of the technical specifications or construction plans, in the selection and awarding process, in the study and resolution of the administrative appeals against the award, or in the process of inspection and control of the construction stage or the reception of the good or service in question.

**ARTICLE 54. APPROPRIATION OF GOODS GIVEN TO THE STATE.** Any public official who appropriates or withholds gifts or donations to be delivered to the State, pursuant to Article 20 of this Act, shall be punished with imprisonment of one to two years.

**ARTICLE 55. TRANSNATIONAL BRIBERY.** Imprisonment of four to twelve years shall be imposed on whoever offers, promises or grants, directly or through an intermediary, to a public official of another State, regardless of the level of government, entity or public company in which he or she works, or to an official or representative of an international organization, directly or indirectly, any gift, whether in money, virtual currency or movable or immovable property, securities, consideration or undue advantage, intended to that official or to another individual or legal entity, so that such official, using his or her position,

performs, delays or omits any act or improperly asserts to another official the influence derived from his or her position.

In case the crime is committed by an individual, a fine of up to two thousand base salaries will also be imposed.

The penalty will be from four to twelve years if the bribe is made so that the official executes an act contrary to his duties.

The same penalty shall apply to whomever accepts or receives the aforementioned gift, retribution or advantage.

**ARTICLE 56. ILLEGAL RECOGNITION OF LABOR BENEFITS.** Any public official who, in representation of the Public Administration and on its behalf, grants or recognizes financial benefits derived from the service relationship, in violation of the applicable legal system, shall be punished with imprisonment of three months to two years.

**ARTICLE 57. INFLUENCE AGAINST THE PUBLIC TREASURY.** Public officials and other similar subjects who, intervening by reason of their position, influence, direct or condition, in any way, so that a determined result may be produced, detrimental to the financial interests of the Public Treasury or to the public interest, or use any maneuver or artifice tending to that end, shall be punished with imprisonment of two to eight years.

**ARTICLE 58. FRAUD OF LAW IN THE ADMINISTRATIVE FUNCTION.** Any public official who exercises an administrative function in fraud of the law, as defined in Article 5 of this Act, shall be punished with imprisonment of one to five years. The same penalty shall apply to the private individual who, knowing that the result is not in conformity with the legal system, is favored or assists in this crime.

### **3.5. ACT 9699 OF 2019 ON LIABILITY OF LEGAL ENTITIES ON DOMESTIC BRIBERY, TRANSNATIONAL BRIBERY AND OTHER CRIMES.**

**ARTICLE 4. CRIMINAL LIABILITY OF LEGAL ENTITIES.** Legal entities shall be criminally liable:

a) For crimes committed in the name or on behalf of the legal entity, and for its direct or indirect benefit, by its legal representatives or by those who, acting individually or as members of an administrative body of the legal entity, are authorized to make decisions on behalf of the legal entity or hold general powers of organization and control within the legal entity.

b) For crimes committed in the exercise of activities of legal entities and on behalf of and for the direct or indirect benefit of the legal entities, by those who, being subject to the authority of the individuals mentioned in the preceding paragraph, have been able to carry out the acts because of a serious breach by them of the duties of supervision, oversight and control of their activity, in view of the specific circumstances of the case.

c) For crimes committed in the name or on behalf of the legal entity, and for its direct or indirect benefit, through intermediaries outside the legal entities, but hired or urged by its legal representatives or by those who, acting individually or as members of an administrative body of the legal entity, are authorized to make decisions on behalf of the legal entity, due to a serious breach by them of the duties of supervision, oversight and control of their activity, in view of the specific circumstances of the case.

Legal entities shall not be criminally liable in cases in which the individuals indicated in the preceding paragraphs have committed the crime for their own advantage or in favor of a third party, or if the representation invoked by the agent is false, without prejudice to the civil or administrative liability they may incur.

The liability of legal entities does not exclude the individual liability of the individuals, whether they are directors or employees or any other person who participates in the commission of the conducts mentioned in this article and which shall be determined by the provisions of other laws.

**ARTICLE 5. INDEPENDENCE OF THE CRIMINAL LIABILITY OF LEGAL ENTITIES.** The criminal liability of legal entities shall be independent of the criminal liability of individuals and shall subsist even when, in accordance with the requirements set forth in this legislation, any of the following situations arise:

a) The individual responsible has not been identified or it has not been possible to direct the process against such individual.

b) When in the criminal proceeding against the aforementioned individual a definitive or provisional dismissal is ordered in accordance with the criminal procedural legislation, or any cause of extinction of the criminal action for the individual.

c) When it has not been possible to establish the participation of the person or persons individually responsible, provided that in the respective process it is reliably demonstrated that the crime was committed within the scope of the functions and powers of the persons indicated in paragraph a) of Article 4 of this law.



# ANNEX 4

## 4. REGULATORY ENVIRONMENT APPLICABLE IN GUATEMALA

### 4.1. PRELIMINARY CONSIDERATIONS

This chapter includes the Guatemalan criminal provisions that are comparable to the offenses described in Decree 231 of 2001 and that are part of the Criminal Risk Prevention Model. Any rules that regulates, adds, modifies, amends, replaces or repeals the regulation related herein shall integrate the regulatory environment of the country.

### 4.2. LIABILITY OF LEGAL ENTITIES IN GUATEMALA

In Guatemala, legal entities shall be criminally liable for acts of corruption, as established in Decree Number 17-1973 CRIMINAL CODE, Decree Number 67-2001 "CRIMES PROVIDED FOR IN THE LAW AGAINST LAUNDERING OF MONEY AND OTHER ASSETS", Decree Number 58-2005 "CRIMES PROVIDED FOR IN THE LAW TO PREVENT AND SUPPRESS" THE FINANCING OF TERRORISM."

### 4.3. CRIMES PROVIDED FOR IN THE GUATEMALAN CRIMINAL CODE AND ITS AMENDMENTS (DECREE NUMBER 17-73)

#### 4.3.1. CRIMINAL LIABILITY OF LEGAL ENTITIES

**ARTICLE 38. CRIMINAL LIABILITY OF LEGAL ENTITIES.** Legal entities shall be liable in all cases in which, with their authorization or consent, their directors, managers, executives, representatives, administrators, officials or employees participate; in addition, when any of the following circumstances occur:

- a) When the criminal act is committed due to the omission of control or supervision and the results are favorable to it.
- b) When the criminal act is committed by decision of the decision-making body. In all crimes where legal entities are responsible and no penalty has been established, a fine from ten thousand dollars (US \$10,000.00) to six hundred twenty-five thousand United States Dollars (US \$625,000.00), or its equivalent in national currency, shall be imposed.

The fine shall be determined according to the economic capacity of the legal entity and shall be fixed considering the circumstances in which the offense was committed.

In case of recidivism, the definitive termination of its legal personality shall be ordered.

### 4.3.2. CRIMES AGAINST PERSONAL LIBERTY AND SECURITY

**ARTICLE 202 BIS. DISCRIMINATION.** Discrimination shall be understood as any distinction, exclusion, restriction or preference based on gender, race, ethnicity, language, age, religion, economic situation, illness, disability, marital status, or any other motive, reason or circumstance, which prevents or hinders a person, group of persons or associations from exercising a legally established right, including common law, in accordance with the Political Constitution of the Republic and international human rights treaties.

Whoever by action or omission incurs in the conduct described in the preceding paragraph shall be punished with imprisonment of one to three years and a fine of five hundred to three thousand quetzales.

The penalty shall be increased by one third:

- a) When the discrimination is for linguistic, cultural or ethnic reasons.
- b) For those who in any way and by any means disseminate, support or incite discriminatory ideas.
- c) When the act is committed by a public official or employee in the exercise of his or her position.
- d) When the act is committed by a private individual in the rendering of a public service.

**ARTICLE 217. VIOLATION OF CORRESPONDENCE AND PRIVATE PAPERS.** Whoever, on purpose or in order to discover the secrets of another, opens correspondence, closed papers or telegraphic, telephonic or other dispatches, which are not addressed to him or her, or whoever, without opening them, becomes aware of their contents, shall be punished with a fine of one hundred to one thousand quetzales.

**ARTICLE 218. THEFT, DIVERSION OR SUPPRESSION OF CORRESPONDENCE.** Whoever unduly takes possession of correspondence, sheets or dispatches referred to in the preceding article or other private papers, even if they are not sealed, or whoever suppresses or diverts them from their destination, shall be sanctioned with a fine of one hundred to one thousand quetzales.

**ARTICLE 219. INTERCEPTION OR REPRODUCTION OF COMMUNICATIONS.** Whoever, using fraudulent means, intercepts, copies or records televised, radio, telegraphic, telephonic or other similar communications, or impedes or interrupts them, shall be sanctioned with a fine of one hundred to one thousand quetzales.

**ARTICLE 220. SPECIFIC AGGRAVATION.** The penalties established for the criminal acts defined in the three preceding articles shall be imprisonment from six months to three years in the following cases:

1. If the perpetrator takes advantage of his or her capacity as manager, director, administrator or employee of the respective agency, company or entity.
2. If it is a matter of official business.
3. If the information obtained is made public by the author, by any means.

4. If the author is a public official or employee.

**ARTICLE 222. UNDUE PUBLICITY.** Whoever, being legitimately in possession of correspondence, papers or recordings, photographs not intended for publicity, makes them public, without due authorization, even if they have been addressed to him or her, when the act causes or could cause damage, shall be sanctioned with a fine of two hundred to two thousand quetzales.

### 4.3.3. CRIMES AGAINST FINANCIAL ASSETS

**ARTICLE 263. FRAUD.** A person commits fraud when, inducing another to error, by means of trickery or deceit, defrauds him or her of his assets to his or her own or another's detriment.

The person responsible for this crime shall be punished with imprisonment of six months to four years and a fine of two hundred to ten thousand quetzales.

**ARTICLE 264. SPECIAL CASES OF FRAUD.** The following shall incur the penalties indicated in the preceding article:

1. Whoever defrauds another by using a fake name, attributing to him or herself power, influence, relations or supposed qualities, giving the appearance of having goods, commission, company or imaginary negotiations.
2. The silversmith or jeweler who alters the quality, law or weight of objects related to his or her art or trade, or who traffics with them.
3. Traffickers who defraud, by using false weights or measures, in the dispatch of the objects of their trade.
4. Whoever defrauds another with alleged remuneration, officials, authorities, agents thereof or public employees, or as a reward for their mediation in order to obtain a favorable resolution in a matter that depends on them, without detriment to the actions of slander that correspond to them.
5. Whoever commits any fraud, abusing the signature of another person in blank or extending with it any document to the detriment of the same or of a third party.
6. Whoever defrauds another by making him or her sign, by deceit, any document.
7. Whoever makes use of fraud in order to secure luck in games of chance.
8. Whoever commits fraud by removing, concealing or rendering useless, in whole or in part, any process, file, document or other written document.
9. Whoever, pretending to be the owner of an immovable asset, disposes, encumbers or makes use of it in any other way.

10. Whoever disposes of an asset as free, knowing that it was encumbered or subject to other types of limitations and whoever, with its disposition or encumbrance, impedes, with a profit motive, the exercise of such rights.

11. Whoever disposes a thing separately to two or more persons, to the detriment of either of them or to the detriment of third parties.

12. Whoever grants, to the detriment of another, a simulated contract.

13. Whoever knowingly acquires or receives, in any form, goods from a person who is not their owner or who does not have the right to dispose of them.

14. Whoever, to the detriment of another, exercises a right of any nature knowing that he or she has been deprived of the same by a final judicial decision.

15. Whoever destroys or deteriorates, in whole or in part, property belonging to him or her, which is subject to the rights of a third party, with the purpose of defrauding the latter.

16. Whoever buys a good in installments and subsequently sells it or disposes of it, in any other way, without having paid the full price.

17. Whoever denies his or her signature on any document of obligation or discharge.

18. Whoever, with false information or concealing background information known to him or her, fraudulently enters into contracts based on such information or background information.

19. Whoever, without authorization or making improper use thereof, by means of collections or funding, defrauds others.

If the collection or funding is made without authorization and without the purpose of defrauding, or, if authorized, the corresponding legal requirements are not complied with, the sanction shall be a fine of twenty to two hundred quetzales.

20. Whoever collects unearned salaries, services or supplies not rendered.

21. Whoever defrauds by taking advantage of the inexperience, lack of discernment or passions of a minor or legally incompetent person.

22. The debtor who disposes, in any form, of the benefits encumbered with pledge to secure credits destined to production.

23. Whoever defrauds or harms another, using any trickery or deceit, which has not been expressed in the preceding paragraphs.

**ARTICLE 268. CHECK FRAUD.** Whoever defrauds another by giving him or her in payment a check without provision of funds or disposing of them before the expiration of the term for its presentation, shall be punished with imprisonment from six months to five years and a fine of one hundred to five thousand quetzales.

The same penalty shall be applied to whomever endorses a check with knowledge of the drawer's lack of funds.

**ARTICLE 270. FLUID FRAUD.** Whoever takes unduly advantage of electric power or any other fluid that is being supplied, or alters the meters or counters intended to mark consumption or the indications or data recorded by such devices, shall be sanctioned with a fine of ten to two thousand quetzales.

Whoever defrauds the consumer, altering by any means the meters or counters of electric power or other fluid, or the indications registered by such apparatus, shall be sanctioned with a fine of five hundred to five thousand quetzales.

**ARTICLE 271. ACCOUNTING INFORMATION FRAUD.** The crime of accounting information fraud is committed by the auditor, expert accountant, expert, director, manager, executive, representative, in-tendant, liquidator, administrator, official or employee of commercial, banking, corporate or cooperative entities, who in their opinions or communications to the public, sign or certify reports, documents or proposals, inventories, integrations, accounting or financial statements, and provide data contrary to the truth or reality or simulated with the intention of defrauding the public or the State.

Those responsible will be sanctioned with non-commutation imprisonment of one to six years and a fine of five thousand to ten thousand quetzales.

In addition, those who carry out these acts with the purpose of attracting investments or pretending to have an economic or financial situation that they do not have shall be sanctioned.

If the responsible parties are auditors or expert accountants, in addition to the aforementioned sanction, they shall be disqualified for the term of the sentence, and if they are repeat offenders, they shall be disqualified for life.

**ARTICLE 274. VIOLATION OF COPYRIGHTS AND RELATED RIGHTS.** Except in cases expressly provided for in laws or treaties on the subject matter to which the Republic of Guatemala is a party, anyone who carries out any of the following acts shall be punished with imprisonment of one to six years and a fine of fifty thousand to seven hundred fifty thousand quetzales: (a) falsely identifying the quality of the owner of a copyright, performer, phonogram producer or a broadcasting organization; b) distortion, mutilation, modification or other damage caused to the integrity of the work or to the honor and reputation of its author; c) reproduction of a work, performance, phonogram or broadcast without the authorization of the author or owner of the corresponding right; d) adaptation, arrangement or transformation of all or part of a protected work without the authorization of the author or owner of the right; e) The communication to the public by any means or process of a protected work or phonogram without the authorization of the owner of the corresponding right; f) The unauthorized distribution of reproductions of all or part of a work or phonogram by means of sale, long-term lease, rental, lease with purchase option, loan or any other modality;

g) The fixation, reproduction or communication to the public by any means or process, of an artistic interpretation or performance without the authorization of the interpreter or performer or of the owner of the right; h) The fixation, reproduction or retransmission of a broadcast transmitted by satellite, radio, wire, cable, optical fiber or any other means without the authorization of the owner of the right; i) The communication to the public of a broadcast or transmission on a site to which the public may have access by paying an admission fee, or for the purpose of consuming or acquiring products or services, without the authorization of the owner of the corresponding right; j) The publication of a protected work that has a title that has been changed or withdrawn, with or without alteration of the work; k) Manufactures, assembles, modifies, imports, exports, sells, leases or in any way distributes a tangible or intangible device or system, knowing or having reason to know that the device or system serves or assists primarily to decode an encrypted satellite signal, which has a program without the authorization of the lawful distributor of such signal, or the intentional reception and distribution of a signal that carries a program that originated as an encrypted satellite signal, knowing that it was decoded, without the authorization of the lawful distributor of the signal; l) With respect to effective technological measures, engaging in the following: l. 1 An act that circumvents or attempts to circumvent an effective technological measure that prevents or controls access to or unauthorized use of any protected work, performance, or phonogram; or l. 2 Manufactures, imports, distributes, offers to the public, provides, sells, offers for sale, or otherwise markets devices, products, or components, or offers to the public, or provides services that: l.2.1 Are promoted, advertised, or marketed for the purpose of circumventing an effective technological measure; l.2.2 Have only a limited commercially significant purpose or use other than to circumvent an effective technological measure; or l.2.3 Are designed, produced, or performed primarily for the purpose of enabling or facilitating the circumvention of an effective technological measure; m) The performance of any act that induces, permits, facilitates, or conceals the infringement of any of the exclusive rights of authors, copyright owners, performers, producers of phonograms, or broadcasting organizations; n) The removal or alteration, without authorization, of information rights management; o) The distribution or import, for distribution, of information rights management, knowing that the information rights management was removed or altered without authorization to do so; p) The distribution, marketing, promotion, import, dissemination or communication or making available to the public, without authorization, of copies of works, performances, phonograms or broadcasts, knowing that the information rights management was removed or altered without authorization; q) The transportation, storage or concealment of reproductions or copies or any type of tangible medium of protected works, phonograms, performances or broadcasts that have been made without the consent of the author or owner of the corresponding right; r) The collection of profits from the use of protected works, performances, phonograms or broadcasts or the performance of any other activity typical of a collective management company without authorization to do so; (s) The disclosure of a new work without the consent of the author or the owner of the corresponding right; t) The translation of a work in whole or in part without the authorization of the author or owner of the corresponding right; u) The distribution, without authorization, of a protected original work or phonogram or its legal reproductions, for sale, long-term lease, rental, lease-purchase, lending or any other modality; and v) The import or export of a protected original work or its reproductions, for trade, in any type of medium or phonogram without the authorization of the owner of the corresponding right. Provisions n), o) and p) shall not apply to legally authorized activities carried out by government employees, officials, or contractors for law enforcement, as well as the performance of intelligence, national defense, security or other similar governmental purposes. The exceptions contained in article 133 sexties of Decree Number 33-98 of the Congress of the Republic, Act on Copyright and Related Rights, as amended, shall also be applicable to subparagraph l) above.

The design, or the design and selection, of parts and components for consumer electronic products, telecommunications or computer products need not respond to a specific technological measure if the product does not infringe subparagraph l) of this article. It shall be understood as information rights management, when what is described in the following subparagraphs is attached to a copy of the work, performance or phonogram, or appears in connection with the communication or making available to the public of a work, performance or phonogram: 1) Information that identifies a work, performance, or phonogram, the author of the work, the performer of the performance, or the producer of the phonogram, or any other owner of a protected right in the work, performance, or phonogram; 2) Information on the terms and conditions of use of the work, performance, or phonogram; or 3) Any number or code that represents such information. Effective technological measure: technology, device or component that in the normal course of its operation, controls access to protected works, performances and protected phonograms or any other protected material, or protects a copyright or a right related to copyright. The assumptions contained in this provision shall be determined based on the applicable provisions of the Act on Copyright and Related Rights.

**ARTICLE 274 "A". DESTRUCTION OF COMPUTER RECORDS.** Whoever destroys, deletes or in any way renders useless, alters or damages computer records shall be punished with imprisonment from six months to four years and a fine of two thousand to ten thousand quetzales.

If the action contemplated in the preceding paragraph is intended to hinder a criminal investigation or prosecution, the responsible party shall be punished pursuant to Article 458 Bis of this Code.

**ARTICLE 274 "B" ALTERATION OF PROGRAMS.** The same penalty of the preceding article shall apply to whomever alters, deletes or in any way renders unusable the instructions or programs used by computers.

**ARTICLE 274 "C". REPRODUCTION OF COMPUTER INSTRUCTIONS OR PROGRAMS.** A prison term of six months to four years and a fine of five hundred to two thousand five hundred quetzales shall be imposed on anyone who, without the author's authorization, copies or in any way reproduces computer instructions or programs.

**ARTICLE 274 "D". PROHIBITED REGISTRATIONS.** A prison term of six months to four years and a fine of two hundred to one thousand Quetzales shall be imposed on anyone who creates a data bank or computer registry with data that may affect the privacy of persons.

**ARTICLE 274 "E". MANIPULATION OF INFORMATION.** A prison term of one to five years and a fine of five hundred to three thousand quetzales shall be imposed on anyone who uses computer records or computer programs to hide, alter or distort information required for a commercial activity, for the fulfillment of an obligation with respect to the State or to hide, falsify or alter the accounting statements or the financial position of an individual or legal entity.



**ARTICLE 274 "F". USE OF INFORMATION.** A prison term of six months to two years, and a fine of two thousand to ten thousand quetzales shall be imposed on whoever, without authorization, uses or obtains for him or herself or for another, data contained in computer records, data banks or electronic files.

**ARTICLE 274 "G". DESTRUCTIVE PROGRAMS.** Whoever distributes or puts into circulation destructive programs or instructions, which may cause damage to computer records, programs or equipment, shall be sanctioned with imprisonment from six months to four years, and a fine of two hundred to one thousand quetzales.

**ARTICLE 275. VIOLATION OF INDUSTRIAL PROPERTY RIGHTS.** Without prejudice to the corresponding civil liabilities, anyone who, without the consent of the owner of the rights, carries out any of the following actions, shall be punished with imprisonment of one to six years and a fine of fifty thousand to seven hundred fifty thousand quetzales:

- a) Introduces into the market, sells, offers to sell, stores or distributes goods or services protected by a registered distinctive sign or who counterfeits such signs in relation to goods or services that are identical or similar to those protected by the registration;
- b) Trades under a protected trade name, emblem or advertising expression or sign;
- c) Introduces into the market, sells, offers to sell, stores or distributes goods or services protected by a registered distinctive sign, after having altered, substituted or suppressed said sign partially or totally;
- d) Uses, offers to sell, sells, stores or distributes goods or services protected by a registered distinctive sign, after having altered, substituted or suppressed said sign partially or totally;
- d) Uses, offers to sell, stores or distributes goods or services with a registered trademark that is confusingly similar to another, after a decision has been issued ordering the discontinuance of the use of such trademark;
- (e) Produces labels, containers, wrappers, wrappings, packaging or other similar materials that reproduce or contain the registered sign or an imitation or counterfeit thereof, and also markets, stores or displays such materials;
- f) Refills or reuses, for any purpose, containers, wrappers, labels or other packaging that have a registered distinctive sign;
- g) Uses in trade: labels, wrappings, containers and other means of packing and packaging, or products or the identification of services of an entrepreneur, or copies, imitations or reproductions of such products and services that could mislead or confuse as to the origin of the products or services;
- h) Uses or takes advantage of the trade secret of another person, and any act of undue sale, disclosure or acquisition of such secrets;

- i) Discloses to a third party a trade secret known to him or her by reason of his or her work, position, office, performance of his or her profession, business relationship or by virtue of the licensing for its use, after having been warned about the confidentiality of such information;
- j) Obtains, by any means whatsoever, a trade secret without the authorization of the person who has it, or its authorized user;
- k) Produces, prepares, markets, sells, offers to sell, puts into circulation, stores or displays products protected by the patent of another person;
- l) Employs a process protected by the patent of another person or performs any of the acts indicated in the preceding paragraph in relation to a product directly obtained by said process;
- m) Produces, prepares, markets, offers to sell, puts into circulation, stores or displays products that in themselves or in their presentation reproduce a protected industrial design;
- n) Uses in trade, in connection with a product or service, a geographical indication liable to mislead the public as to the origin of the said product or service, or as to the identity of the product, its manufacturer or the merchant who distributes it;
- ñ) Uses in trade, in relation to a product, a designation of origin susceptible to confuse, even when the true origin of the product is indicated, a translation of the designation is used or it is used together with expressions such as "type", "genre", "manner", "imitation" or others that are analogous;
- o) Imports or exports in order to introduce counterfeit goods into the market; and
- p) Uses in trade a registered trademark, or a copy or fraudulent imitation thereof, in relation to goods or services that are identical or similar to those to which the trademark is applied.

The assumptions contained in this provision shall be determined based on the applicable provisions of the Industrial Property Law.

#### **4.3.4. CRIMES AGAINST THE AUTHORITY OF ATTESTATION AND THE NATIONAL HERITAGE**

**ARTICLE 313. MANUFACTURE OF COUNTERFEIT CURRENCY.** Whoever manufactures counterfeit currency by imitating legitimate national or foreign currency, legal tender in the Republic or abroad, shall be punished with imprisonment of two to ten years.

**ARTICLE 314. ALTERATION OF CURRENCY.** Whoever alters, in any way, legitimate national or foreign currency, legal tender in the Republic or abroad, shall be punished with imprisonment from two to ten years.

**ARTICLE 315. INTRODUCTION OF COUNTERFEIT OR ALTERED CURRENCY.** The penalties set forth in the preceding articles shall be applied, in the respective cases, to those who knowingly introduce into the country counterfeit or altered currency.

**ARTICLE 316. ISSUANCE OF COUNTERFEIT OR ALTERED CURRENCY.** Whoever knowingly acquires or receives counterfeit or altered currency and puts it, in any way, into circulation, shall be punished with the same penalty as that indicated in the respective cases for those who counterfeit or alter currency.

**ARTICLE 318. ISSUANCE OF COUNTERFEIT CURRENCY RECEIVED IN GOOD FAITH.** Whoever, having received in good faith false, counterfeit or altered currency, issues it or puts it into circulation, knowing it to be false, counterfeit or altered, shall be sanctioned with a fine of fifty to two thousand quetzales.

**ARTICLE 319. ISSUANCE AND CIRCULATION OF CURRENCY.** Whoever illegitimately issues monetary pieces or causes them to circulate within the territory of the Republic, shall be punished with imprisonment from three to twelve years.

The same penalty shall be incurred by whoever circulates bills, vouchers, promissory notes or other documents containing an order or promise of payment in cash, to the bearer and at sight, or tokens, cards, slips, plates or other objects, with the purpose of making them circulate. Objects, for the purpose of serving as currency.

**ARTICLE 320. SECURITIES EQUATED TO CURRENCY.** For the purposes of the criminal law, the following shall be considered as currency:

1. The legal tender bank bill, national or foreign.
2. National or municipal debt securities and their coupons.
3. Bonds or bills of the national or municipal treasury.
4. Securities, bonds and bearer shares and their coupons, issued in an official capacity by legally authorized public or private entities.
5. Securities, bonds and bearer shares, their coupons and bonds and bills issued by a foreign government.

**ARTICLE 321. MATERIAL FALSEHOOD.** Whoever makes, in whole or in part, a false public document, or alters a true one, in such a way that damage may result, shall be punished with imprisonment from two to six years.

**ARTICLE 322. IDEOLOGICAL FALSEHOOD.** Whoever, on account of the granting, authorization or formalization of a public document, inserts or causes to be inserted false statements concerning a fact that the document must prove, in such a way that damage may result, shall be punished with imprisonment from two to six years.

**ARTICLE 323. FORGERY OF PRIVATE DOCUMENTS.** Whoever, in a private document, commits any of the forgeries referred to in the two preceding articles, shall be punished with imprisonment from one to three years.

**ARTICLE 324. PARITY OF DOCUMENTS.** When the acts provided for in the first two articles of this chapter fall on credit titles, nominative or to order, or on bills of exchange, or other titles transmissible by endorsement, the responsible party shall be punished, in the respective cases, with the penalty established in the same articles.

**ARTICLE 325. USE OF FORGED DOCUMENTS.** Whoever, without having intervened in the forgery, makes use of a forged document, knowing it to be false, shall be punished with the same penalty as the one applicable to the perpetrator of the forgery.

**ARTICLE 326. FORGERY OF A CERTIFICATE.** The physician who issues a false certificate concerning the existence or non-existence, present or past, of an illness or injury, when damage may result therefrom, shall be punished with a fine of three hundred to three thousand quetzales.

**ARTICLE 327. SUPPRESSION, CONCEALMENT OR DESTRUCTION OF DOCUMENTS.** Whoever destroys, conceals or suppresses, in whole or in part, a true document, of the nature of those specified in this chapter, shall be punished with the penalties indicated in the preceding articles, in their respective cases.

The same penalty shall be incurred by whomever, with the intention of evading the action of justice, performs the acts referred to in the preceding paragraph on documents or objects that constitute means of proof.

**ARTICLE 330. FORGERY OF LICENSE PLATES AND VEHICLE BADGES.** Whoever falsifies license plates or other distinctive signs for vehicles, as agreed upon by the authorities for such vehicles, or alters the real ones, shall be punished with imprisonment of one to three years.

The same penalty shall be applied to whomever knowingly uses falsified or altered license plates or badges for vehicles.

**ARTICLE 331. FORGERY OF PASSWORDS AND MARKS.** Whoever falsifies marks, passwords or signatures officially used to contrast weights or measures, identify any object or certify its quality, quantity or content, shall be punished with imprisonment from one to four years.

The same penalty shall be imposed on whomever applies legitimate marks or passwords, of official use, to objects or articles different from those to which they should have been applied.

**ARTICLE 332. USE OF SEALS AND OTHER UNUSABLE OBJECTS.** Whoever causes to disappear from any of the seals, stamps, marks or passwords, the sign indicating that they have already served or have been used for the purpose of their issuance, or are used again, shall be sanctioned with a fine of two hundred to two thousand quetzales.

The same sanction shall be applied to whomever knowingly uses, causes to be used or offers for sale the unusable objects referred to in the preceding paragraph.

### 4.3.5. CRIMES AGAINST THE NATIONAL ECONOMY, COMMERCE, INDUSTRY AND THE TAX REGIME.

**ARTICLE 340. MONOPOLY.** Whoever, with illicit purposes, performs acts with evident prejudice to the national economy, absorbing the production of one or more industrial branches, or of the same commercial or agricultural activity, or takes exclusive advantage of them through some privilege, or using any other means, or carries out maneuvers or agreements, even if they are disguised with the constitution of several companies, to sell goods at certain prices to the evident prejudice of the national economy or of individuals, shall be punished with imprisonment from six months to five years and a fine of five hundred to ten thousand quetzales.

**ARTICLE 341. OTHER FORMS OF MONOPOLY.** The following are also considered acts of monopoly contrary to the public economy and the social interest:

1. The hoarding or subtraction for consumption of articles of basic necessity, with the purpose of provoking the rise of prices in the domestic market.
2. Any act or procedure that prevents or intends to prevent free concurrence in production or trade.
3. Agreements or pacts entered into without prior governmental authorization, aimed at limiting the production or processing of any article, with the purpose of establishing or sustaining privileges and profiting from them.
4. The sale of goods of any nature, below cost price, with the purpose of preventing free competition in the internal market.
5. The exportation of articles of basic necessity without the permission of the competent authority, when required, if this may cause shortages.

The person responsible for any of the acts listed above shall be punished with imprisonment of six months to three years and a fine of two hundred to five thousand quetzales.

**ARTICLE 342. SPECULATION.** Whoever, by spreading false rumors, propagating false news or making use of any other similar artifice, deviates or distorts the natural economic laws of supply and demand, or breaks the ordinary conditions of the market producing by means of such manipulations, the unjustified increase or decrease in the value of the legal tender, or in the current price of merchandise, of public or private revenues, of quoted values, of salaries or of any other thing that is the object of contracting, shall be sanctioned with imprisonment from one to five years and a fine of one thousand to one hundred thousand Quetzales.

In the event that the offense contemplated in the present article is established in a chain of businesses, it shall be taken as an independent offense for each one in which the offense in reference is committed.

**ARTICLE 342 "A". FOREIGN EXCHANGE CRIME.** A foreign exchange crime is committed by:

- 1) Whoever does not sell to the Bank of Guatemala or to the Banks of the system authorized to operate in foreign exchange, the foreign currency that he or she is obligated to negotiate, within the legally established time;
- 2) Whoever, without being legally authorized, routinely and for profit, buys and sells foreign currency;
- 3) Whoever, in order to carry out imports or exports, makes or uses an invoice or other false document or one containing false or inaccurate data regarding the value, quantity, quality or other characteristics of such operations;
- 4) Whoever carries out exports without having previously obtained the export exchange license or other legally required authorization; and
- 5) Whoever by means of fraud or deceit obtains a license to acquire foreign currency from the market destined for essential payments or from the bidding market or whoever uses such foreign currency for a different destination than the authorized one.

Those responsible for the foreign exchange crime shall be punished with imprisonment from two to five years. In addition, they shall be fined the amount of the illicit act, when the amount of the same can be determined or otherwise from five hundred to five thousand quetzales,.

**ARTICLE 342 "B". FINANCIAL PANIC.** Anyone who prepares, discloses or reproduces, by any means or communication system, false or inaccurate information that undermines the confidence of clients, users, depositors or investors of an institution subject to the supervision and inspection of the Superintendence of Banks commits the crime of financial panic. It shall be understood that the confidence of clients, users, depositors or investors of an institution is undermined when, as a consequence of the aforementioned acts, its reputation or financial prestige is undermined or when the institution is subject to massive withdrawal of deposits or investments, greater than or above its normal or ordinary flow.

The person responsible for the commission of this crime shall be sanctioned with imprisonment from one to three years and with a fine from five thousand to fifty thousand quetzales.

If the crime was committed knowing or foreseeing the damages or losses to be caused to the institution, the perpetrator shall be sanctioned with imprisonment from five to ten years and a fine from one hundred thousand to eight hundred thousand quetzales. In this case, any of the substitutive measures contemplated in the Code of Criminal Procedure may not be granted.

The penalties referred to in this article shall be increased by one third when the person responsible for the crime is a shareholder, director, administrator, manager, representative, officer or employee of an institution subject to the supervision and inspection of the Superintendence of Banks, or authority, officer or employee of the Bank of Guatemala or the Superintendence of Banks.

The authors of studies, analyses and opinions of a scientific or academic nature that, based on authentic and verifiable information, are oriented to evaluate or qualify the financial system or its actors, seeking to maximize its efficiency and development, are excluded from the scope of this article.

**ARTICLE 346. ILLEGAL EXPLOITATION OF NATURAL RESOURCES.** Whoever exploits mineral resources, construction materials, rocks and natural resources contained in the territorial sea, submarine platform, rivers and national lakes, without having the respective license or authorization, or whoever, having it, fails to comply with or exceeds the conditions provided therein, shall be punished with imprisonment of two to five years and confiscation of the tools, instruments and machinery used in the commission of the crime.

If this crime is committed by employees or legal representatives of a legal entity or a company, seeking benefit for it, in addition to the sanctions applicable to the participants of the crime, the legal entity or company will be fined from five thousand to twenty-five thousand quetzales. If there is a recurrence, the legal entity or company will be sanctioned with its definitive termination.

Those who fish or hunt occasionally, for sport or to feed their families are exempted.

**ARTICLE 347 "A". POLLUTION.** Whoever pollutes the air, soil or water by means of toxic emissions, excessive noise, dumping dangerous substances or discarding products that may harm people, animals, forests or plantations, shall be punished with imprisonment of one to two years and a fine of three hundred to five thousand quetzales.

If the contamination is produced due to negligence, a fine of two hundred to one thousand five hundred quetzales shall be imposed.

**ARTICLE 347 "B". INDUSTRIAL POLLUTION.** A prison term of two to ten years and a fine of three thousand to ten thousand quetzales shall be imposed on the Director, Administrator, Manager, Owner or Beneficiary of an industrial exploitation or commercial activity who allows or authorizes, in the exercise of the commercial or industrial activity, the contamination of the air, soil or water, by means of toxic emissions, excessive noise, dumping of dangerous substances or discarding products that may harm people, animals, forests or plantations.

If the contamination is produced in a town, or in its vicinity, or affects plantations or water intended for public service, the penalty of imprisonment shall be increased by double the minimum and one third of the maximum.

If the contamination is caused due to negligence, imprisonment of one to five years and a fine of one thousand to five thousand quetzales shall be imposed.

In the two preceding articles, the penalty shall be increased by one third if, as a consequence of the contamination, there is a permanent alteration of the environmental or climatic conditions.

**ARTICLE 347 "E". WILDLIFE PROTECTION.** A prison term of one to five years shall be imposed on anyone who hunts animals, birds or insects without state authorization or, having it, without complying with or exceeding the conditions set forth in the authorization. The penalty shall be increased by one third if the hunting is carried out in a protected area or national park.



**ARTICLE 348. FRAUDULENT BANKRUPTCY.** The merchant who has been declared in fraudulent bankruptcy shall be sanctioned with imprisonment from two to ten years and special disqualification for double the time of the sentence.

In the case of fraudulent bankruptcy of a bank, insurance company, reinsurance company, surety company, finance company, general deposit warehouse, stock exchange, savings cooperative, mutual entity, and other similar institutions, the directors, administrators, managers, liquidators and shareholders who are responsible for, or have benefited from the mismanagement, or have cooperated in the planning or execution, or both, of any of the acts that caused it, shall be punished with imprisonment from twenty to thirty years and special disqualification for twice the term of the sentence.

The statute of limitations of criminal liability and of the penalty will not benefit the person responsible for the bankruptcy declared fraudulent, in case of escape or evasion. No type of substitutive measure may be applied to the defendant, nor may the person sentenced to imprisonment for this crime be granted a reduced sentence for any reason.

**ARTICLE 349. NEGLIGENT BANKRUPTCY.** The merchant who has been declared in negligent bankruptcy shall be punished with imprisonment from one to five years and special disqualification for twice the term of the sentence.

In the case of the negligent bankruptcy of a bank, insurance company, reinsurance company, surety company, finance company, general deposit warehouse, stock exchange, savings cooperative, mutual entity, and other similar institutions, the directors, administrators, managers, liquidators and shareholders who are responsible for or have benefited from the mismanagement, or have cooperated in the planning or execution, or both, of one or more of the acts that caused it, shall be punished with imprisonment from ten to twenty years and special disqualification for twice the term of the sentence. The statute of limitations of the criminal liability and of the penalty shall not benefit the person responsible for the declared negligent bankruptcy, in case of escape or evasion. No kind of alternative measure may be applied to the defendant, nor may the person sentenced to imprisonment for this crime be granted a reduced sentence for any reason.

**ARTICLE 350. PERSONAL LIABILITY.** When a commercial enterprise is declared bankrupt, any director, administrator or liquidator of the failed company or establishment who has cooperated in the execution of any of the illicit acts that motivated it, shall be punished with the same penalty as that indicated for the fraudulent or negligent bankruptcy, as the case may be.

**ARTICLE 351. COMPLICITY.** Those who carry out any of the following acts shall be punished as accomplices to the crime of fraudulent bankruptcy:

1. Conspiring with the bankrupt to assume credits against him or her to increase them, alter their nature or date with the purpose of taking precedence in ranking, to the detriment of other creditors, even when this is verified before the declaration of bankruptcy.
2. Having assisted the bankrupt in the lifting, subtraction or concealment of his or her assets.

3. Concealing from the bankruptcy administrators the existence of assets that, although belonging to the bankrupt, are in the possession of the responsible party, or delivering them to the bankrupt and not to said administrators.

4. Verifying particular agreements with the bankrupt to the detriment of other creditors.

**ARTICLE 352. FRAUDULENT CONVEYANCE OF ASSETS.** Whoever, on purpose and in order to avoid payment of his or her obligations, fraudulently conveys his or her assets, disposes, encumbers or conceals them, simulates credits or dispositions, without leaving a person to represent him or her, or sufficient assets to answer the payment of his or her debts, shall be sanctioned with imprisonment of two to six years and a fine of two hundred to three thousand Quetzales.

If the responsible party is a merchant, he or she shall also be sanctioned with special disqualification for twice the term of the sentence.

**ARTICLE 357. COMMERCIAL DISCREDIT.** Whoever falsely imputes to another a fact that harms his or her credit, trust or prestige in his or her commercial activities shall be punished with a fine of two hundred to two thousand Quetzales, if the fact does not constitute another more serious offense.

**ARTICLE 358. UNFAIR COMPETITION.** Whoever carries out an act qualified as unfair competition, in accordance with the provisions on that matter contained in the Industrial Property Act, shall be sanctioned with a fine of fifty thousand to one hundred thousand Quetzales, unless the act constitutes an act of violation of industrial property rights.

**ARTICLE 358 "A". TAX FRAUD.** A person commits the crime of tax fraud when, by means of simulation, concealment, maneuver, trickery, or any other form of deceit, he or she induces the tax administration to error in the determination or payment of the tax obligation, in such a way as to produce detriment or impairment in the collection of taxes.

The person responsible for this crime shall be punished with imprisonment from one to six years, which shall be decided by the Judge in relation to the severity of the case, and a fine equivalent to the omitted tax.

If the offense is committed by a foreigner, he or she shall be sentenced, in addition to the applicable penalties, to expulsion from the national territory, which shall be executed immediately after the completion of such penalties.

**ARTICLE 358 "B". SPECIAL CASES OF FRAUD.** Special cases of tax fraud.

The following shall incur the penalties indicated in the preceding article:

1. Whoever uses goods, objects or products benefited by exemptions or franchises for purposes other than those established in the law granting the exemption or franchise, without having covered the taxes that would be applicable to the benefited goods, objects or products.

2. Whoever covertly sales goods evading fiscal control or the payment of taxes.

It is understood that whoever acts secretly, having or not an establishment open to the public, exercises commercial activities and does not have a trade license; or having it, does not keep the accounting books required by the Code of Commerce and the Value Added Tax Law.

3. Whoever falsifies, forges or destroys seals, stamps or other means of tax control; as well as whoever, being in charge of such means of tax control, makes improper use of them or allows others to do so.

4. Whoever destroys, alters or conceals the characteristics of the goods, or omits the indication of their destination or origin.

5. Whoever makes in whole or in part a false invoice or document, which is not authorized by the Tax Administration, with the intention of affecting the determination or payment of taxes.

6. Whoever keeps double or multiple accounting in order to negatively affect the determination or payment of taxes.

7. Whoever falsifies in the forms, receipts or other means to prove the payment of taxes, the seals or marks of operations of the receiving cash registers of the banks of the system, of other entities authorized to collect taxes or of the receiving cash registers of the Tax Administration.

8. Whoever alters or destroys the tax control mechanisms, placed in recording or stamping machines, tax stamps and the like.

If this offense is committed by employees or legal representatives of a legal entity, seeking benefit for the latter, in addition to the penalties applicable to the participants of the offense, a fine equivalent to the amount of the omitted tax shall be imposed on the legal entity. In the event of recidivism, the legal entity shall be sanctioned with the definitive termination of the trade license.

9. The payer of Value Added Tax who, for his or her own or another's benefit, does not declare all or part of the tax charged to his or her clients in the sale of goods or the rendering of taxable services, which he or she must pay to the Tax Administration after having subtracted the corresponding tax credit.

10. The taxpayer who, in order to simulate the acquisition of goods or services, forges invoices, obtains them from another taxpayer or assumes the existence of another taxpayer who issues them, in order to appear as expenses that were not really made, with the purpose of distorting his or her obtained income and evading to reduce the tax rate that he or she would have to cover, or to fraudulently increase his or her tax credit; and the taxpayer who issues them.

11. Whoever, in order to simulate the acquisition of goods or merchandise of any nature or to accredit the ownership of the same, whose origin is of an illicit or contraband nature, forges invoices, uses forged invoices, obtains invoices from a third party, or simulates the existence of a taxpayer.

12. Whoever issues, facilitates or provides invoices to a third party to simulate the acquisition of goods or merchandise of any nature, or to accredit the ownership thereof, the origin of which is illicit or contraband.

**ARTICLE 358 "C". MISAPPROPRIATION OF TAXES.** The crime of misappropriation of taxes is committed by whoever acting as a collection or withholding agent, for his or her own benefit, or for the benefit of a company or third party, does not pay to the Tax Administration all or part of the taxes collected or withheld, after the term established by the specific tax laws to pay them has elapsed.

The person responsible for this crime shall be punished with imprisonment from one to six years, which shall be determined by the Judge in relation to the severity of the case, and a fine equivalent to the appropriate tax.

If the offense is committed by directors, managers, administrators, officers, employees or legal representatives of a legal entity, for the benefit of the latter, in addition to the sanction applicable to those responsible, a fine equivalent to the amount of the unpaid tax shall be imposed on the legal entity, and the legal entity shall be warned that in case of recidivism, the definitive termination of the trade license shall be ordered.

If the offense is committed by a foreigner, the penalty of expulsion from the national territory shall be imposed, in addition to the penalties to which the foreigner is liable, which shall be executed immediately after the completion of such penalties.

**ARTICLE 358 "D". RESISTANCE TO THE AUDITING OF THE TAX ADMINISTRATION.** The crime of resistance to the auditing of the Tax Administration is committed by whoever, after having been requested by said Administration, with the intervention of a competent judge, impedes the actions and proceedings necessary for the auditing and determination of his or her obligation, refuses to provide books, records or other accounting documents necessary to establish the taxable base of the taxes, or impedes access to the computer system in relation to the recording of his or her accounting operations.

The person responsible for this offense shall be punished with imprisonment from one to six years and a fine equivalent to one percent (1%) of the gross income of the taxpayer, during the monthly, quarterly or annual period under review.

If this offense is committed by employees or legal representatives of a legal entity seeking benefit for the latter, in addition to the penalties applicable to the participants of the offense, a fine equivalent to the amount of the omitted tax shall be imposed on the legal entity. In the event of recidivism, the legal entity will be sanctioned with the definitive termination of the trade license.

If the offense is committed by a foreigner, in addition to the applicable penalties, he or she shall be sentenced to expulsion from the national territory, which shall be executed immediately upon completion of those penalties.

### 4.3.6. CRIMES AGAINST THE PUBLIC ADMINISTRATION

**ARTICLE 414. DISOBEDIENCE.** Whoever openly disobeys an order of an official, authority or agent of authority, issued in the legitimate exercise of his or her powers, shall be punished with a fine of five thousand to fifty thousand Quetzales.

**ARTICLE 439. PASSIVE BRIBERY.** The crime of passive bribery is committed by the public official, public employee or whoever exercises public functions, who requests or accepts, directly or indirectly, any object of monetary value or other benefit, by way of favor, gift, present, promise, advantage or by any other concept, for him or herself or for another person, to perform, order, delay or omit an act proper to his or her office.

The person responsible for this crime shall be punished with imprisonment from five to ten years, a fine of fifty thousand to five hundred thousand Quetzales, and special disqualification, without prejudice to the penalty applicable to the crime committed. When the public official or employee forces the favor, gift, present, promise or advantage, the penalty shall be increased by one third.

Persons who report the acts mentioned in this article shall be protected by the corresponding authorities, in accordance with the legislation in force.

**ARTICLE 440. CONCURRENCE WITH ANOTHER CRIME.** When the purpose of the gift or present requested, received, offered or promised is the performance of an act that constitutes a crime, the sanction indicated in the preceding article shall be imposed, without prejudice to the concurrence of a crime.

**ARTICLE 442. ACTIVE BRIBERY.** The crime of active bribery is committed by any person who offers or delivers to a public official, public employee or anyone exercising public functions, directly or indirectly, any object of monetary value or other benefit, as a favor, gift, present, promise, advantage or by any other concept, for him or herself or for another person, so that he or she performs, orders, delays or omits an act proper to his or her position.

The person responsible for this offense shall be punished with imprisonment from five to ten years, a fine of fifty thousand to five hundred thousand Quetzales and special disqualification, without prejudice to the penalty applicable to the offense committed.

**ARTICLE 442 BIS. ACTIVE TRANSNATIONAL BRIBERY.** Any person who offers or delivers to a public official or employee of another State or international organization, directly or indirectly, any object of monetary value or other benefit, by way of favor, gift, present, promise, advantage or by any other concept, for him or herself or for another person, to perform, order, delay or omit an act proper to his or her position, commits the crime of active transnational bribery.

The responsible party shall be punished with imprisonment from five to ten years and a fine of fifty thousand to five hundred thousand Quetzales.

**ARTICLE 442 TER. PASSIVE TRANSNATIONAL BRIBERY.** A public official or employee of another State or international organization who requests or accepts, directly or indirectly, any object of monetary value or other benefit, by way of favor, gift, present, promise, advantage or any other concept, for him or herself

or for another person, in order to perform, order or omit an act proper to his or her position, commits the crime of passive transnational bribery.

The responsible party shall be punished with imprisonment from five to ten years and a fine of fifty thousand to five hundred thousand Quetzales.

**ARTICLE 448 TER. ILLICIT ENRICHMENT OF PRIVATE INDIVIDUALS.** The crime of illicit enrichment of private individuals is committed by anyone who, without being a public official or employee, administers, executes or manages public resources or State assets, up to five years after having ceased in such function, who obtains for him or herself or for any person a financial benefit, an increase in his or her level of expenses, or the cancellation of debts or obligations that do not correspond to what he or she may have obtained derived from his or her administration, execution or management or other lawful income.

The person responsible for this crime shall be punished with imprisonment from four to eight years and a fine from fifty thousand to five hundred thousand Quetzales.

In case the person responsible for this crime is a legal entity, for the imposition of the penalty the provisions of article 38 of the Criminal Code shall be applied.

**ARTICLE 448 QUATER. FRONT MAN.** The individual or legal entity that lends its name or corporate name to collaborate in the commission of any of the crimes contemplated in Title XIII of this Code commits the crime of front man; the person responsible for this crime shall be sanctioned with a prison sentence of five to ten years and a fine of fifty thousand to five hundred thousand Quetzales.

**ARTICLE 449 BIS. INFLUENCE PEDDLING.** The crime of influence peddling is committed by the person who, by him or herself or through an intermediary, or acting as an intermediary, influences a public official or employee, taking advantage of his or her hierarchy, position, friendship or any other personal connection, to obtain an undue benefit, for him or herself or for a third person, in a matter that said public official or employee is hearing or must resolve, whether or not there is detriment to the assets of the State or of a third party.

The person responsible for this offense shall be punished with imprisonment of two to six years and special disqualification.

The same penalty shall apply to the person who, directly or indirectly, requests or accepts a benefit, with the purpose of using his or her real or supposed influence on a public official or employee, to obtain an undue benefit for him or herself or for a third party.

If the public official or employee who is hearing, must hear or resolve the matter is an official or employee of the administration of justice, the penalty shall be doubled.

**ARTICLE 450. FRAUD.** The crime of fraud in the public administration is committed by the official, public employee, whoever exercises public functions or whoever, on the occasion of one or more contracts with the State for the execution of works or services, intervenes in any phase of the bidding, quotation, acquisition, purchase, concession, auction, liquidation, processed directly or through another executing

unit, uses any artifice to defraud the State. The person responsible for this offense shall be punished with imprisonment of five to ten years and special disqualification.

If the operation in which he or she is involved is related to or destined for welfare purposes or social support programs, the penalty shall be increased by two thirds.

#### **4.3.7. CRIMES AGAINST THE PUBLIC ADMINISTRATION**

**ARTICLE 458 BIS. HINDERING PROSECUTION.** Whoever influences another person to prevent him or her from providing information or evidence to the competent organs of the justice system commits the crime of hindering prosecution.

Whoever uses physical force, intimidation, threats or coercion on any public official or employee who is a member of the Judicial Branch or of the auxiliary institutions of the administration of justice, translator, interpreter or expert, to hinder the fulfillment of their functions.

Whoever, in order to avoid obtaining evidence or means of proof, refuses to provide documents or information known to him or her or in his or her possession to the Public Ministry, Judicial Branch, National Civil Police or General Directorate of Criminal Investigation, being obligated to do so.

Whoever, with the same purpose, destroys or conceals information or documents, or provides false documents or information to the Public Ministry, Judicial Body, National Civil Police or General Directorate of Criminal Investigation.

The person responsible for any of the typified actions shall be punished with imprisonment of three to six years and special disqualification.

**ARTICLE 459. PERJURY.** A person commits perjury when, before a competent authority, he or she swears to tell the truth and misrepresents it with malice.

The person responsible for this crime shall be punished with imprisonment of six months to three years and a fine of fifty to one thousand Quetzales.

### **5. CRIMES PROVIDED IN THE ACT AGAINST CUSTOMS FRAUD AND SMUGGLING (DECREE NUMBER 58-90)**

#### **5.1. CUSTOMS FRAUD AND SMUGGLING**

**ARTICLE 1. CUSTOMS FRAUD.** Customs fraud is any action or omission by means of which the payment of taxes applicable to the customs regime is fraudulently evaded, in whole or in part.

The violation of the rules and undue application of the prohibitions or restrictions provided in the customs legislation, with the purpose of obtaining an advantage by infringing such legislation, also constitutes fraud.



**ARTICLE 2. SPECIAL CASES OF CUSTOMS FRAUD.** The following are special cases of customs fraud:

- a) The carrying out of any operation using documents in which the references to quality, class, quantity, weight, value, provenance or origin of the goods are altered.
- b) The forgery of the bill of lading, air waybill, bill of lading, commercial invoice, letter of correction or certificate of origin or any equivalent document, without prejudice to the liability incurred by the very fact of forgery.
- c) The substitution of exported or temporarily imported goods, at the time of reimportation or exportation.
- d) The use of goods imported under an exemption or reduction of the payment of the applicable taxes, for purposes other than those for which the exemption or reduction was granted.
- e) The execution of contracts of any nature, based on documents that cover goods totally or partially exempted from the payment of import duties and taxes, without the necessary prior authorization.
- f) The disposition, under any title, of goods imported temporarily, when the customs formalities to convert such importation into definitive have not been complied with.
- g) The fraudulent diminution of the value or quantity of the goods subject to appraisal, by virtue of damage, impairment, deterioration or damage, ostensibly greater than that which should correspond.
- h) Undue decreases of the tariff units made during the gauging process or the fixing of values that are not in accordance with the provisions of the tariff legislation in force.
- i) Inaccurate declaration of the quantity actually entered or exported introduced into the national customs territory.
- j) Illegally obtaining any concession, permit or license to import goods totally or partially exempted or exempted from taxes.
- k) Determining the base price of the goods subject to auction, with a value lower than the corresponding value.
- l) Using a manifestly inadequate legal form or structure to avoid taxes.
- m) Having in its possession goods not originating in the country, in quantities greater than those covered by the respective import or internment documents.
- n) The omission to declare or the inaccurate declaration of the goods or the data and requirements necessary for the correct determination of the import taxes, in import policies, customs forms or other declarations required by the customs authority for this purpose.

o) To declare goods with a customs value lower than the price actually paid or payable, with the intention of totally or partially omitting the payment of the customs tax obligation, by providing inaccurate data in the respective declarations, supported by invoices or other types of commercial documents or with altered or falsified transport documents or that do not correspond to the commercial transaction carried out.

p) Simulating the importation, exportation, re-exportation or making use of any other customs regime or operation in order to obtain fiscal, tax or any other type of benefits granted by the State.

**ARTICLE 3. CUSTOMS SMUGGLING.** The clandestine introduction or extraction to and from the country of goods of any kind, origin or provenance, evading the intervention of the customs authorities, constitutes customs smuggling, even if it does not cause fiscal damage.

It also constitutes smuggling the introduction or extraction from the national customs territory of goods whose importation or exportation is legally prohibited or limited.

**ARTICLE 4. SPECIAL CASES OF CUSTOMS SMUGGLING.** The following are special cases of customs smuggling:

a) The entry or exit of goods through unauthorized places.

b) The subtraction, disposal or consumption of goods stored in customs warehouses, whether public or private, or in areas authorized for this purpose, prior to the payment of the corresponding import duties.

c) The embarkation, disembarkation or transshipment of goods without complying with the corresponding customs formalities.

d) The clandestine internment or extraction of merchandise hiding them in double bottoms, in other merchandise, in the body or in the luggage of persons or using any other means that has the purpose of evading customs control.

e) The admission of goods coming from zones of the national territory that have exonerating fiscal regimes or are in any form privileged to other places of the country where such benefits do not exist, without having complied with the corresponding customs procedures.

f) The launching in the country's territory or in its territorial sea of foreign goods with the purpose of using them evading the customs authority.

g) The violation of seals, seals, doors, containers, and other means of security of goods whose customs formalities have not been completed or which are not destined for the country.

h) Any other form of concealment of goods at the time they are introduced into or taken out of the national customs territory, or during registration operations or the act of gauging.

## 5.2. CRIMES PROVIDED FOR IN THE FORESTRY ACT (DECREE NUMBER 101-96)

### 5.2.1. FORESTRY CRIMES

**ARTICLE 92. CRIME AGAINST FOREST RESOURCES.** Whoever, without the corresponding license, cuts down, harvests or extracts trees whose total standing wood exceeds ten (10) cubic meters of any forest species with the exception of the species referred to in Article 99 of this law, or proceeds to debarking, cutting or banding, commits a crime against forest resources. Those responsible for the actions contained in this article shall be sanctioned as follows:

- a) From five point one (5.1) cubic meters to one hundred (100) cubic meters, with a fine equivalent to the value of the wood according to the appraisal made by INAB.
- b) From one hundred point one (100.1) cubic meters onwards, with imprisonment from one to five (1 to 5) years and a fine equivalent to the value of the wood, according to the appraisal made by INAB.

**ARTICLE 93. FOREST FIRE.** Whoever causes a forest fire shall be sanctioned with a fine equivalent to the value of the appraisal made by INAB and imprisonment from two to ten years. In case of recidivism, the imprisonment shall be from four to twelve years.

Whoever causes a forest fire in legally declared protected areas shall be sanctioned with a fine equivalent to the value of the appraisal made by CONAP, and imprisonment from four to twelve years. In case of recidivism, imprisonment will be from six to fifteen years.

For each forest fire, an exhaustive investigation process shall be opened in order to determine the origin and once established, the responsible party or parties shall be prosecuted, as indicated in the preceding paragraphs.

**ARTICLE 94. COLLECTION, USE AND SALE OF FOREST PRODUCTS WITHOUT DOCUMENTATION.** Whoever collects, uses or sales forest products without the corresponding documentation, reusing or adulterating it, shall be sanctioned in the following manner and criteria:

- a) From one to five (1 to 5) cubic meters, with a fine equivalent to twenty-five percent (25%), of the value extracted.
- b) For more than five (5) cubic meters, with imprisonment of one to five years (1 to 5) and a fine equivalent to fifty percent (50%) of the value extracted.

**ARTICLE 95. CRIMES AGAINST THE NATIONAL FOREST HERITAGE COMMITTED BY AUTHORITIES.** Whoever, being responsible for issuing forestry licenses, as well as authorizing forest management, issues licenses and authorizations without verifying the information required by this law and its regulations; or the authority that allows the marketing or export of forest products, without verifying that the corresponding documentation reliably exists, shall be punished with imprisonment from one to five (1 to 5) years and a fine equivalent to the value of the wood, according to the rate established by INAB.

**ARTICLE 96. THE CRIME OF FORGERY OF DOCUMENTS FOR THE USE OF FORESTRY INCENTIVES.**

Whoever, in order to benefit from the forestry incentives granted by this law, submits false documents or alters a true one, or inserts or causes to be inserted false statements to the documents related to the use and granting of forestry incentives, commits fraudulent acts and shall be punished with imprisonment of two to six (2 to 6) years and a fine of fifteen thousand to one hundred thousand quetzales (GTQ 15,000.00 to GTQ 100,000.00).

**ARTICLE 97. NON-COMPLIANCE WITH THE FOREST MANAGEMENT PLAN AS A CRIME.** Whoever, due to non-compliance with the norms established in the Forest Management Plan approved, damages the forest resources, shall be sanctioned in proportion to the damage done and with a fine of no less than two thousand quetzales (GTQ 2,000.00), based on the quantification made on the ground by INAB and reported to the competent authority. The products and by-products obtained shall remain at the disposal of INAB.

**ARTICLE 98. UNAUTHORIZED CHANGE OF LAND USE.** Whoever changes, without authorization, the use of the land in areas covered by forest and registered as beneficiaries of the forestry incentive, shall be punished with imprisonment from two to six (2 to 6) years and a fine equivalent to the value of the wood according to the appraisal made by INAB.

**ARTICLE 101. FALSENESS OF THE MANAGER.** In the event that the Manager commits falsehood in the information to be provided to INAB, in addition to the criminal liabilities that may arise from the fact, he or she shall be excluded from the list of professionals authorized to perform this function before INAB.

**5.3. CRIMES PROVIDED FOR IN THE LAW AGAINST LAUNDERING OF MONEY AND OTHER ASSETS (DECREE NUMBER 67-2001)**

**5.3.1. CRIMINAL LIABILITY OF LEGAL ENTITIES**

**ARTICLE 5. LEGAL ENTITIES.** Legal entities, independently of the criminal liability of their owners, directors, managers, administrators, officials, employees or legal representatives, shall be imputable for the crimes provided for in this law, when they are acts carried out by their regular bodies, provided that they are within the normal or apparent line of business or object of their business.

In this case, in addition to the penalties applicable to those responsible, a fine of ten thousand dollars (USD \$10,000.00) to six hundred twenty-five thousand dollars (USD \$625,000.00) or its equivalent in national currency shall be imposed on the legal entity, according to the severity and circumstances in which the crime was committed, and it shall be warned that in case of recidivism, the definitive termination of its legal personality shall be ordered.

The legal entity will also be sanctioned with the confiscation, loss or destruction of the proceeds from the commission of the crime or of the instruments used for its commission; the payment of costs and procedural expenses, and the publication of the sentence in at least two of the most widely circulated written social communication media in the country.

In the case of legal entities subject to the supervision and control of the Superintendence of Banks, the Judge shall notify said supervisory body of the respective conviction, so that it may proceed to apply the measures contained in the relevant laws.

### 5.3.2. CRIME OF MONEY LAUNDERING

**ARTICLE 2. THE CRIME OF MONEY LAUNDERING.** The crime of money laundering is committed by any person who by him or herself or through an intermediary:

(a) Invests, converts, transfers or carries out any financial transaction with property or money, knowing, or who by reason of his position, employment, trade or profession is obliged to know that the same are the proceeds, come from or originate from the commission of a crime;

b) Acquires, possesses, administers, holds or uses property or money knowing, or who by reason of his position, employment, trade or profession is obliged to know, that the same are the proceeds, proceed or originate from the commission of a crime;

c) Conceals or impedes the determination of the true nature, origin, location, destination, movement or ownership of property or money or of the rights relating to such property or money knowing, or who by reason of his office, employment, trade or profession is obliged to know, that the same are the proceeds of the commission of a crime.

## 5.4. CRIMES PROVIDED FOR IN THE LAW TO PREVENT AND REPRESS THE FINANCING OF TERRORISM (DECREE NUMBER 58-2005)

### 5.4.1. CRIMINAL LIABILITY OF LEGAL ENTITIES

**ARTICLE 7. CRIMINAL LIABILITY OF LEGAL ENTITIES.** The crimes provided for in this Law shall be imputable to legal entities, regardless of the criminal liability of their owners, directors, managers, administrators, officers, employees or legal representatives, when they are acts carried out by their regular bodies.

In this case, in addition to the penalties applicable to those responsible, the legal entity shall be fined the amount of the goods or money object of the crime, and shall be warned that in case of recidivism, the cancellation of its legal personality shall be ordered definitively.

The legal entity will also be sanctioned with the confiscation, loss or destruction of the objects originating from the commission of the crime or of the instruments used for its commission, the payment of costs and procedural expenses, and the publication of the sentence in at least two of the most widely circulated written means of social communication in the country.

In the case of legal entities subject to the supervision and control of the Superintendency of Banks, the judge shall notify said supervisory body of the respective conviction, so that it may proceed to apply the measures contained in the relevant laws.

## 5.4.2. CRIMES RELATED TO THE FINANCING OF TERRORISM

**ARTICLE 4. THE CRIME OF FINANCING OF TERRORISM.** The crime of financing of terrorism is committed by anyone who by any means, directly or indirectly, by him or herself or through an intermediary, deliberately provides, supplies, collects, transfers, delivers, acquires, possesses, administers, negotiates or manages money or any kind of goods, with the intention that they be used, or in the knowledge that they will be used, in whole or in part, for terrorism.

In addition, this crime is committed by whoever performs any of the acts defined as financing of terrorism in any of the international conventions approved and ratified by Guatemala.

Whoever commits this crime shall be sentenced to imprisonment of six (6) to twenty-five (25) years, plus a fine of ten thousand dollars (USD \$10,000.00) to six hundred twenty-five thousand dollars (USD \$625,000.00), or its equivalent in national currency.

For the crime of financing terrorism to be considered consummated, it shall not be necessary that the acts of terrorism are carried out, but it shall be necessary that the intention to commit such acts is manifested by outward material signs. It is also not necessary that an investigation, criminal proceeding or conviction has been initiated with respect to the acts of terrorism.

**ARTICLE 8. CASH SMUGGLING.** The crime of cash smuggling is committed by whomever omitting to make the corresponding sworn declaration at the port of exit or entry of the country, in the forms established by the Act Against Laundering of Money or Other Assets, by him or herself or through an intermediary, transports from or to the Republic money in cash or in negotiable bearer documents, for a sum greater than ten thousand United States dollars, or its equivalent in national currency.

The person responsible for this crime shall be punished with imprisonment from one to three years.

The imposition of the corresponding penalties for the commission of this crime shall be understood without prejudice to the precautionary measures that may be applicable in case of omission of the declaration or when there is falsehood in the same.

# ANNEX 5

## 5. REGULATORY ENVIRONMENT APPLICABLE IN PANAMA

### 5.1. PRELIMINARY CONSIDERATIONS

This chapter includes the Panamanian criminal and administrative provisions that are comparable to the offenses described in Decree 231 of 2001 and that are part of the Criminal Risk Prevention Model. Any rule that regulates, adds, modifies, amends, replaces or repeals the regulation provided herein shall be part of the country's regulatory environment.

### 5.2. LIABILITY OF LEGAL ENTITIES IN PANAMA

In Panama, legal entities shall be liable as established in Act 14 of 2007, in the cases in which the companies are used or created to commit a crime, in the terms of article 51 of the same Act.

### 5.3. CRIMES PROVIDED FOR IN THE PANAMA CRIMINAL CODE (ACT 14 OF 2007)

#### 5.3.1. LIABILITY OF LEGAL ENTITIES

When a legal entity is used or created to commit a crime, even if it does not benefit from it, any of the following sanctions shall be applied to it:

1. Cancellation or suspension of the license or registration for a term not exceeding five years.
2. Fine of not less than five thousand balboas (B/5,000.00) and not more than twice the amount of the loss or the financial benefit.
3. Total or partial loss of tax benefits.
4. Disqualification to contract with the State, directly or indirectly, for a term not exceeding five years, which shall be imposed along with any of the above.
5. Dissolution of the company.
6. Fine of not less than twenty-five thousand Balboas (B/.25,000.00) and not more than twice the damage or the financial benefit, in case the legal entity is the provider of the transportation service through which the drug is introduced into the national territory.

**ART. 97.** Legal entity charged. In the case of proceedings involving legal entities, the notification that the company is being investigated and the application of the respective sanction shall be made to its president or legal representative.



The president or legal representative of the legal entity shall exercise, on its behalf, all the rights and guarantees that correspond to the corporation.

The provisions of this Code for the accused and the defendant shall be understood to apply to the person representing the legal entity, as applicable.

### 5.3.2. SWINDLING AND OTHER FRAUDS

**Art. 2020.** Whoever by means of deceit procures or procures for a third party an illicit benefit to the detriment of another shall be punished with imprisonment of one to four years.

The penalty shall be increased by up to one third when it is committed by abusing personal or professional relationships, or when it is carried out through a cybernetic or computerized methods.

The conduct provided for in the preceding article shall be punishable with imprisonment of five to ten years in the following cases:

1. If the financial injury exceeds one hundred thousand balboas (B/.100,000.00).
2. If it is committed by attorneys-in-fact, managers or administrators in the exercise of their functions.
3. If it is committed to the detriment of the Public Administration or of a charitable establishment.
4. If the identity of another person is usurped or used to obtain some benefit.

### 5.3.3. CRIMES AGAINST THE ECONOMIC ORDER

#### Crimes against Free Competition and the Rights of Consumers and Users.

**ART. 238.** Whoever removes and retains from the market raw materials or products of basic necessity, with the intention of de-supplying a sector of the market, or to alter the prices of goods or public or private services, harming consumers or users, shall be sanctioned with a prison term of four to eight years.

**ART. 239.** Whoever, to the detriment of the consumer, invoices higher amounts for products or services, whose costs or prices are measured by means of automatic devices or apparatuses, shall be sanctioned with a prison term of two to five years. Crime of Undue Withholding of Fees.

**ART. 241.** The director, officer, manager, administrator, legal representative, employee or worker of a company who, in the term of three months, after the obligation to pay arises, withholds and does not remit the employee-employer quotas to the Social Security Fund, whenever these exceed the sum of one thousand balboas (B/.1,000.00), or whoever has been required by this entity for the release of the withholding, shall be sanctioned with imprisonment from two to four years.

The same sanction shall be applied to employers or their representatives and other obligated subjects who, by means of deceitful declarations, malicious concealment or any other scheme, evade or in any way impede the affiliation to the Social Security of the persons obligated to affiliate.

The penalty shall be increased from one-sixth to one-third of the employer, the legal representative or whoever, in one way or another, orders the manager, administrator or accountant to withhold the delivery of contributions.

**ART. 242.** Whoever withholds and does not remit the voluntary salary deductions, authorized by the worker, to the addressee, within the term indicated to that effect, shall be sanctioned with imprisonment from six months to three years or its equivalent in days-fines or weekend arrest.

### **Financial Crimes**

Whoever, for his or her own or another's benefit, seizes, causes the illicit transfer or makes undue use of money, securities or other financial resources of a banking entity, financial company or other that captures or intermediaries with financial resources of the public or that have been entrusted to it, or performs these conducts through computer manipulation, fraudulent or technological means, shall be sanctioned with imprisonment from four to six years.

The penalty shall be six to eight years' imprisonment when the punishable act is committed by an employee, worker, director, officer, officer, administrator or legal representative of the entity or company, taking advantage of his position or the error of others.

**ART. 244.** Whoever destroys, conceals or falsifies the accounting books, other accounting records, financial statements or other financial information of an individual or legal entity, with the purpose of obtaining, maintaining or extending a credit or capital facility from a banking entity, financial company or other that captures or intermediates with financial resources from the public or that have been entrusted to it, in a way that results in prejudice, shall be sanctioned with six to eight years' imprisonment.

The same sanction shall be applied to whomever makes use of the falsified financial documents or derives benefit from the destruction, concealment or falsification thereof.

**ART. 245.** Whoever destroys, conceals or falsifies the accounting books or records, the financial information or the annotations of records or in custody accounts of an issuer registered with the National Securities Commission, or of those who operate as a securities house, investment advisor, investment company, investment administrator, or of an intermediary or of a self-regulated organization or of a member of a self-regulated organization, in a way that results in prejudice, shall be sanctioned with imprisonment from six to eight years.

The sanctions imposed in articles 244 and 245 shall be aggravated from one third to one half when: The acts are performed by an authorized public accountant.

The person who promotes or facilitates the conducts is a director, manager, dignitary, administrator, legal representative, proxy or employee of the individual or legal entity that receives the credit facility or capital.

**ART. 247.** The director, officer, manager, administrator, legal representative, member of the credit committee, employee or worker of a banking entity, financial company or other that captures or

intermediaries with financial resources from the public, that directly or indirectly approves one or several credits or other financing, above the legal regulations, in a manner that may cause the forced liquidation, insolvency or permanent illiquidity, shall be sanctioned with imprisonment from four to seven years. The same sanction shall be imposed on the beneficiaries of the credit who have participated in the crime.

The above sanction shall be aggravated by one fourth of the maximum, if it is carried out for personal gain.

**ART. 248.** Whoever massively and habitually captures financial resources from the public, without being authorized by the competent authority, shall be sanctioned with a prison term of eight to fifteen years.

**ART. 249.** Whoever for his or her own or another's benefit unduly uses or discloses privileged information, obtained by a privileged relationship, related to securities registered in the National Securities Commission or securities traded in an organized market, in a manner that causes damage, shall be sanctioned with imprisonment of six to eight years.

For the effect of this article, confidential information shall be considered that which, by its nature, may influence the prices of securities and which has not yet been made public knowledge.

**ART. 250.** The director, officer, manager, administrator, legal representative or employee of a banking entity, financial company or other that captures or intermediates with financial resources from the public that, in order to hide situations of illiquidity or insolvency of the entity, omits or denies providing information, or provides false data to the supervision and control authorities, shall be sanctioned with a prison term of five to eight years.

**ART. 251.** Whoever, with the purpose of procuring an undue advantage for himself or for a third party, makes purchase or sale offers of registered securities, or to buy or sell said securities creates a false or deceitful appearance that the registered securities are being actively negotiated, or establishes a false or deceitful appearance regarding the market of the registered securities, or manipulates the market price of any registered security, with the purpose of facilitating the sale or purchase of said securities, shall be sanctioned with imprisonment of four to six years.

**ART. 252.** The public servant who negligently omits to carry out the corresponding controls to which he or she is obligated by virtue of the attributions proper to his or her position related to the previous criminal types shall be sanctioned with one to three years of imprisonment or its equivalent in days-fine or weekend arrest.

**ART. 253.** Whoever, directly or indirectly promises, offers, grants, requests or accepts to a person who directs a private sector entity or performs any function in it, an undue benefit that results in his or her own or another's benefit, with the purpose of failing to act or refrain from acting, shall be punished with two to four years of imprisonment or its equivalent in days-fines or community work.

**ART. 253A.** Whoever performs in a commercial manner the service of money transfer, either through transfer systems or transmission of funds, compensation of funds or by any other means, and without a license from the competent authority, shall be punished with imprisonment from five to eight years.

## Crimes of Money Laundering

**ART. 254.** Whoever, personally or through an intermediary, receives, deposits, negotiates, transfers or converts money, titles, securities, goods or other financial resources, reasonably foreseeing that they come from activities related to international bribery, crimes against Copyrights and Related Rights, crimes against Industrial Property Rights, Illicit Trafficking of Migrants, Trafficking in Persons, organ trafficking, crimes against the Environment, crimes of Commercial Sexual Exploitation, crimes against the Legal Personality of the State, crimes against the Legal Security of Electronic Media, qualified fraud, Theft, Financial Crimes, kidnapping, extortion, homicide for price or reward, Embezzlement, Corruption of Public Servants, Unjustified Enrichment, pornography and Corruption of Minors, theft or international trafficking of vehicles, its parts and components, Falsification of Documents in General, omission or falsification of the traveler's customs declaration regarding money, securities or negotiable documents, forgery of currency and other securities, crimes against the Historical Patrimony of the Nation, crimes against Collective Security, Terrorism and Financing of Terrorism, crimes related to Drugs, Piracy, Organized Delinquency, Illicit Association, Gangs, Possession and Trafficking of Weapons and Explosives, and Violent Appropriation and Subtraction of Illicit Material, Trafficking and Reception of things originating from crime, smuggling crimes, customs fraud, with the purpose of hiding, concealing or disguising their illicit origin, or helping to evade the legal consequences of such punishable acts, shall be punished with five to twelve years of imprisonment.

**ART. 254A.** Whoever, personally or through an intermediary, receives, possesses, deposits, negotiates, transfers or converts monies, titles, securities, goods and other financial resources, knowing that they come from crimes against the National Treasury, established in this Code, with the purpose of hiding, concealing or dissimulating their illicit origin, or helps to evade the legal consequences of such punishable act, shall be sanctioned with two to four years of imprisonment.

If it is determined that the crime provided for in this Article has been committed through one or more legal persons, the penalty shall be imposed on the legal person in question and shall be a fine of one to three times the amount of the defrauded tax.

The penalty referred to in the preceding article shall be imposed on the person who:

1. Without having participated, but knowing of its origin, conceals, covers up or impedes the determination, origin, location, destination or ownership of monies, goods, securities or other financial resources, or helps to ensure their profit, when these come from or have been obtained directly or indirectly from any of the illicit activities indicated in the preceding article, or in any other way helps to ensure their profit.
2. Carries out transactions personally or through an intermediary, individual or legal entity, in a banking, financial, commercial or any other type of establishment, with money, securities or other financial resources coming from any of the activities provided for in the preceding article.
3. Personally or through an intermediary, individual or legal entity, provides false information to another person or banking, financial, commercial or any other type of establishment, for the opening of a bank account or for the execution of transactions with money, securities, goods or other financial resources, coming from any of the activities provided in the preceding article.

**ART. 256.** Whoever, knowing of its origin, receives or uses money or any financial resource coming from money laundering, for the financing of a political campaign or of any nature, shall be sanctioned with a prison term of five to ten years.

**ART. 257.** Whoever, knowing of its origin, uses his function, employment, office or profession to authorize or allow the crime of money laundering, described in Article 254 of this Code, shall be sanctioned with a prison term of five to eight years.

**ART. 258.** The public servant who hides, alters, removes or destroys evidence or proof of a crime related to money laundering, or procures the escape of the apprehended, detained or sentenced person, or receives money or any other benefit with the purpose of favoring or harming any of the parties in the process shall be sanctioned with three to six years of imprisonment.

For the purposes of this Chapter, transactions shall be understood, among others, as made in or from the Republic of Panama, such as deposit, purchase of management check, credit, debit or prepaid card, money order, certificate of deposit, traveler's check or any other title-value, transfer and payment order, purchase and sale of currency, stock, bond and any other title or value on behalf of the client, as long as the amount of such transactions is received in the Republic of Panama in money, kind or title that represents it.

### 5.3.4. CRIMES AGAINST COMPUTER SECURITY

**ART. 289.** Whoever unduly enters or uses a database, network or computer system shall be sanctioned with two to four years in prison.

Whoever unduly seizes, copies, uses or modifies the data in transit or contained in a database or computer system, or interferes, intercepts, obstructs or impedes its transmission shall be sanctioned with two to four years in prison.

The conducts described in Articles 289 and 290 shall be aggravated by one third to one sixth of the penalty if they are committed against data contained in databases or computer systems of:

- Public offices or under their guardianship.
- Public, private or mixed institutions that provide a public service.
- Banks, insurance companies and other financial and stock market institutions.

The penalty shall also be aggravated in the manner provided for in this article when the acts are committed for profit.

These penalties shall be applied without prejudice to the penalties applicable if the data referred to in this Chapter consists of confidential information of restricted access, referring to the security of the State, as provided for in Chapter I, Title XIV, of Book Two of this Code.

**ART. 292.** If the conducts described in this Chapter are committed by the person in charge or responsible for the database or the computer system, or by the person authorized to access it, or committed using privileged information, the sanction shall be aggravated between one sixth and one third.

### 5.3.5. CRIMES AGAINST PUBLIC ADMINISTRATION

**ART. 338.** The public servant who steals or embezzles in any way, or consents that another appropriates, steals or embezzles in any way money, securities or goods, whose administration, collection or custody has been entrusted to him/her by reason of his/her position, shall be sanctioned with imprisonment of four to ten years.

If the amount of the appropriated amount exceeds the sum of one hundred thousand Balboas (B/.100,000.00) or if the money, securities or goods appropriated were destined for welfare purposes or for development or social support programs, the penalty shall be eight to fifteen years of imprisonment.

**ART. 339.** The public servant who, in the exercise of his or her office and taking advantage of another's error, appropriates, subtracts or uses, for his or her own or another's benefit, money, securities or national or municipal goods, shall be sanctioned with a prison term of four to eight years.

The public servant who negligently causes the loss or misplacement of money, securities or goods, whose administration, collection or custody have been entrusted to him or her by reason of his or her position, or causes another person to steal, use or appropriate them, for his or her own or another's benefit, shall be sanctioned with a prison term of three to six years.

The person who, taking advantage of said conduct, steals, uses or appropriates the money, securities or goods referred to in the preceding paragraph, shall be punished with a prison term of four to six years.

**ART. 341.** The public servant who, for purposes outside the service, uses for his or her own or another's benefit, or allows another to use money, securities or goods that are under his or her responsibility by reason of his or her functions or that are under his or her custody, shall be sanctioned with imprisonment from one to three years, or its equivalent in days-fine or weekend arrest.

The same penalty shall be applied to the public servant who uses official work or services for his or her benefit or allows another to do so.

**ART. 342.** The public servant who gives the funds or instruments he or she administers a public application or function different from the one for which they were intended, and the service or function entrusted to him or her is affected, shall be punished with imprisonment of one to three years.

The penalty shall be three to six years imprisonment, if the act is intended to obtain a benefit for him or herself or for a third party, or if the funds or instruments were intended for welfare purposes or for development or social support programs and the service or function entrusted to him or her is affected.

**ART. 343.** The provisions of this Chapter apply to:

Whoever is in charge, under any title, of funds, revenues or instruments of a public entity.

The individual legally designated as depositary of public funds or instruments.

The administrator or depositary of money or goods seized, confiscated or deposited by public authority, even if they belong to private individuals.

Persons or representatives of legal entities who are in charge of administering money, goods or securities that are part of a donation made to the State from abroad or made by the State for works of a public nature and of social interest.

Workers of public utility companies in which the State has economic participation, unless a special law establishes otherwise.

**ART. 344.** When before the resolution of elevation of the case to trial is issued, the person responsible for the crimes described in Articles 338, 339 and 341 reimburses the money and its interests, goods or values object of the crimes, the sanction shall be reduced by half. If he or she does so after the order is issued and before the first instance sentence, the reduction will be of one third.

### **Corruption of Public Servants**

**ART. 345.** Any public servant who, personally or through an intermediary, engages in the following conducts shall be punished with imprisonment of two to four years:

Accepts, receives or requests donation, promise, money or any benefit or advantage, to perform, omit or delay an act in violation of his or her obligations, or whoever accepts them as a consequence of having failed to perform them.

Accept, receive or request a donation, promise, money or any undue advantage or benefit, to perform an act proper to his or her office or employment, without failing to fulfill his or her obligations, or as a consequence of the act already performed.

**ART. 346.** The public servant who, serving as a member of the Judiciary or the Public Ministry, administrative authority, arbitrator, or any position that must decide a matter of his or her knowledge or competence, personally or through an intermediary, accepts, receives, or solicits a donation, promise, money, benefit or advantage to harm or favor one of the parties in the process, or as a consequence of having harmed or favored one of them, shall be punished with imprisonment of four to eight years.

The same sanction shall be applied to the official of the Judicial Branch or of the Public Ministry who:

1. By collusion or by other fraudulent means, issues a resolution manifestly contrary to the Political Constitution or the law, in such a way as to cause harm.



2. By collusion or by other fraudulent means, receives or gives legal advice to any of the parties, in such a way as to cause harm.

3. Maliciously delays a process submitted to his or her decision.

If the conducts provided for in this article result in the conviction of an innocent person, the penalty shall be five to ten years of imprisonment.

**ART. 347.** Whoever, under any modality, offers, promises or delivers to a public servant a donation, promise, money or any benefit or advantage so that he or she performs, delays or omits any act proper to his or her position or employment or in violation of his or her obligations, shall be sanctioned with three to six years of imprisonment.

**ART. 348.** The public servant who uses in his or her or another's favor information or data of a reserved or confidential nature and of restricted access of which he or she has knowledge by reason of his or her position shall be sanctioned with a prison term of four to eight years.

**ART. 349.** The public servant who accepts an appointment to a public position or receives remuneration from the State without rendering the service to which he or she has been appointed, without a justified cause, shall be sanctioned with one hundred fifty to three hundred days' fine or community work.

When any of the conducts described in Articles 345, 346, and 347 of this Code is performed on a public servant of another State or official of a public international organization, so that said servant or official performs, omits, or delays any act in violation of his obligations, or to perform any act proper to his or her position or employment, or as a consequence of the acts already performed, the sanction shall be imprisonment for five to eight years.

### **Unjustified Enrichment**

**ART. 351.** The public servant who, personally or through an intermediary, unduly increases his assets with respect to the legitimate income obtained during the exercise of his or her office and up to five years after leaving office, and whose lawful origin he or she cannot justify, shall be sanctioned with a prison term of three to six years.

The penalty shall be six to twelve years imprisonment if the unjustifiably obtained amount exceeds one hundred thousand balboas (B/.100,000.00).

The same penalty shall be applied to the person interposed to disguise the unjustified increase in assets.

For the purposes of this provision, it shall be understood that there is unjustified enrichment not only when the assets have been increased with money, things or goods, with respect to his or her legitimate income, but also when debts have been cancelled or obligations that affect it have been extinguished.

## Extortion and Exaction

**ART. 352.** The public servant who induces someone to unduly give or promise money or any other gain for his or her own or another's benefit shall be sanctioned with a prison term of three to six years.

The public servant who collects any tax, fee, levy, charge, contribution or non-existent right shall be sanctioned with imprisonment from three to six years. If the collection is legal, but some means not authorized by law is used, the sanction shall be six months to one year of imprisonment or its equivalent in day-fines or weekend arrest.

## Influence Peddling

Whoever, using his or her influence or pretending to have it, requests, receives, accepts a promise or promises for his or her own or another's benefit, money, goods or any other economic benefit or with legal effect, with the purpose of obtaining a benefit from a public servant or a foreign public servant of an international organization in a matter that he or she knows or may know, shall be sanctioned with a prison term of four to six years.

The penalty shall be five to eight years imprisonment, if the person exercising or simulating influence is a hierarchical superior of the person who knows or should know the matter in question.

Abuse of Authority and Infringement of the Duties of Public Servants.

**ART. 355.** The public servant who, abusing his or her position, orders or commits to the detriment of any person an arbitrary act not specifically qualified in the criminal law, shall be sanctioned with imprisonment from one to two years or its equivalent in days-fines or weekend arrests.

**ART. 356.** The public servant who illegally refuses, omits or delays any act proper to his or her office shall be sanctioned with imprisonment from six months to one year or its equivalent in day-fines or weekend arrest.

The sanction shall be increased from one third to one half, when the omission occurs in the cases of launchings ordered by a competent authority.

**ART. 357.** The agent of the Public Force who refuses, omits or delays, without justified cause, the rendering of assistance legally required by competent authority shall be sanctioned with imprisonment of one to three years.

The same penalty shall be imposed on the public servant who requires the support of the Public Force to avoid the execution of provisions or legal orders of the authority or the sentence or court orders.

If the provision of assistance is required by a private individual in a situation of danger, the penalty shall be two to four years of imprisonment.

**ART. 358.** The public servant who abandons his position without having legally ended the performance thereof and thereby causes damage to the Public Administration shall be sanctioned with a prison term of one to three years.

It is understood that there is abandonment of employment whenever the public servant leaves his or her post for more than five working days without cause or without having been replaced in due form.

ART. 359. Whoever, without title or appointment, usurps a public function, or whoever, being legally dismissed, suspended or separated from his or her position continues to exercise it, or whoever usurps functions corresponding to a position different from the one he or she holds, shall be sanctioned with imprisonment of two to four years.

### **Crimes against Public Servants**

**ART. 360.** Whoever with violence, intimidation or deceit impedes, hinders or imposes on a public servant or the person who assists him or her, the execution or omission of an act proper to the legitimate exercise of his or her functions shall be sanctioned with imprisonment from two to five years.

The sanction shall be aggravated by one third to one half, if the act is perpetrated by several persons or by one who uses a weapon or is carried out in a judicial process.

### **Violation of Public Seals**

**ART. 361.** Whoever violates, destroys or detaches wrappings, seals or marks placed by a competent authority to preserve or identify an object shall be sanctioned with imprisonment of one to three years or its equivalent in days-fines or weekend arrest.

If the perpetrator has the obligation to guard or conserve them, the penalty shall be increased by half the penalty.

**ART. 362.** Whoever steals, conceals, changes, destroys or renders useless objects, records or documents that have been entrusted to the custody of an official or other persons, intended to serve as evidence before a competent authority conducting a process, shall be sanctioned with imprisonment of two to four years.

**ART. 363.** Whoever removes, suppresses, destroys or alters any instrument, act or document that belongs to or is in the custody of a public office, shall be sanctioned with imprisonment from six months to two years or its equivalent in days-fine or weekend arrest.

If the perpetrator is the same public servant who by reason of his or her functions had custody of the instruments, minutes or documents, the penalty shall be imprisonment for two to four years.

If the damage caused has been slight or if the perpetrator has returned the instrument, act or document in full, without having derived any benefit therefrom and before the order leading to the proceeding is issued, the penalty shall be reduced by up to three quarters.

If the delivery is made under the conditions set forth in the preceding paragraph, after the summary proceedings have been initiated and before the order for trial has been issued, the penalty shall be reduced by up to one-half.

### **Fraud in Public Procurement Acts.**

The following shall be sanctioned with imprisonment from six months to two years or its equivalent in days-fines:

Agrees with another to alter the price in a public procurement act.

Requests or receives payment, pays or makes a promise of payment to participate or not to participate in a public procurement act.

Prevents the participation of another bidder or participant by means of violence, intimidation or deceit.

Disseminates false or distorted news in any of the acts of public procurement to take advantage in favor of him or herself or a third party.

Agrees with its competitor to fix the price in one or more acts of public procurement.

**ART. 365.** The public servant who with his or her actions favors or harms any of the participants in the public acts indicated in the preceding article shall be sanctioned with imprisonment from two to four years or its equivalent in days-fines and with disqualification to exercise public functions for the same period.

### **• Articles 288-G to 288-J are added with respect to Crimes against the National Treasury, providing the following:**

Whoever for his or her own or another's benefit and with intent incurs in tax fraud against the National Treasury and affects the correct determination of a tax obligation in order to avoid paying, totally or partially, the corresponding taxes, shall be sanctioned with imprisonment from two to four years.

Whoever fraudulently obtains an exemption, refund, enjoyment or use of undue tax benefits shall be punished with imprisonment of two to four years and with a fine of one to three times the amount of the defrauded tax.

When a legal entity is used in some of the conducts mentioned above or is benefited by the same, it shall be sanctioned with a fine not less than or more than twice the amount of the defrauded tax.

The aforementioned penalties shall be applicable when the amount defrauded in a fiscal period is equal or greater than B/. 300,000.00, not including fines, surcharges and interest.

The Tax Authority shall be competent when the amount defrauded is less than B/. 300,000.00.

Whoever pays the amount of the defrauded tax obligation and its formal accessories, unconditionally and in full, before the first instance sentence, shall be exempted from the penalty.

In case the payment is made during the investigation phase, no criminal action arising from any tax fraud offense shall be exercised against the persons investigated for the amounts of tax fraud cancelled.

• **Article 29 of Act 23 of 2015 is amended, establishing that financial regulated entities, financial non-regulated entities and activities carried out by professionals subject to supervision shall:**

Keep updated all records of due diligence information and documentation carried out for the identification and verification of the individual and beneficial owner of legal entities or other legal structures.

In the case of clients classified as high risk, the updating of all records of information and due diligence documentation must be performed at least once a year.

Safeguard, for a minimum period of five years from the termination of the professional relationship, the information, due diligence documentation of the client and beneficiary, as well as the records of the operations performed.

• **Article 54 of Act 23 of 2015 is amended, establishing that financial regulated entities, non-financial regulated entities and activities carried out by professionals subject to supervision shall:**

Communicate directly to the Financial Analysis Unit for the Prevention of the Crime of Money Laundering and Financing of Terrorism any event, transaction or operation that has been carried out, or attempted operation, suspected of being related to the crimes of money laundering, financing of terrorism and the financing of the proliferation of weapons of mass destruction, regardless of the amount, that cannot be justified or sustained.

The reports must be sent immediately, from the detection of the event, suspicious operation, the execution of the transaction or operation or attempted operation.

In cases where the collection of all the information initially submitted is complex or requires clarification to be accurate or truthful, the information initially submitted must be expeditiously supplemented by means of a supplementary suspicious transaction report.

### **5.3.6. CRIMES AGAINST THE ENVIRONMENT AND LAND USE PLANNING**

#### **Crime against Natural Resources**

**ART. 399.** Whoever, in violation of the established environmental protection regulations, destroys, extracts, contaminates or degrades natural resources, shall be punished with imprisonment from three to six years.

The penalty provided for in this article shall be increased by one third to one half in any of the following cases:

1. When the action falls on protected areas or marine coastal ecosystems or wetlands are totally or partially destroyed.
2. When direct damage is caused to hydrographic basins.
3. When damage is caused to an area declared of special biological, historical, archeological or scientific value.
4. When surface or subway water resources are ostensibly affected in such a way as to negatively affect the ecosystem.
5. When the health or life of people is endangered.
6. When explosive or toxic substance is used to carry out the fishing activity.
7. When the conduct is carried out by an industry or activity that operates without having obtained the respective authorization or approval from the competent authority.
8. When the conduct has involved falsehood or has concealed information on the environmental impact of the activity or has obstructed the inspection ordered by the competent authority.
9. When the damage is irreversible. Irreversible means those effects that imply the impossibility of returning to the previous situation.

**ART. 400.** Whoever, without the authorization of the competent authority, builds a dam or retaining wall, or diverts the course of a river, stream or other natural drainage route, decreasing, obstructing or preventing the free flow and ebb of water, directly affecting the ecosystem, the health of people or an economic activity, shall be punished with imprisonment of two to five years.

**ART. 401.** Whoever obstructs or impedes the free flow of sewage shall be sanctioned with imprisonment from one to three years or its equivalent in day-fines and weekend arrest.

ART. 402. Whoever, without the authorization of the competent authority or in non-compliance with the applicable regulations to that effect, imports or exports, handles, generates, emits, deposits, commercializes, transports, discharges or disposes of radioactive material, sewage, waste or solid, liquid or gaseous waste, shall be sanctioned with imprisonment of four to eight years.

The penalty shall be increased by one part to one half when such residues or wastes:

Cause contagious diseases that constitute a danger to people or wildlife.

Are carcinogenic or alter people's genetics.

Cause explosion risks or are flammable or highly radioactive.

May damage the water, atmosphere or soil, or seriously endanger wildlife, due to their kind, quantity or quality.

**ART. 403.** Whoever sells or transfers under any title domestic subsistence permits without legal authorization shall be sanctioned with fifty to one hundred days' fine.

The penalty shall be from one to three years of imprisonment when it is a community exploitation permit.

**ART. 404.** Whoever buys or acquires from the beneficiary a domestic or subsistence permit for the cutting of trees that does not correspond to him or her shall be sanctioned with imprisonment from one to three years.

The penalty shall be three to five years of imprisonment when it is a community exploitation permit.

**ART. 405.** Whoever duly authorized to cut trees exceeds the amount, species or area granted shall be punished with imprisonment of two to five years.

**ART. 406.** Whoever, without authorization from the competent authority or in breach of existing regulations, cuts down, destroys or degrades arboreal or shrub plant formations constituting forest or subject to special protection, in protected areas, in hydrographic basins, in prohibited or restricted zones, or when these protect springs that provide drinking water to the population, shall be sanctioned with three to seven years of imprisonment.

**ART. 407.** Whoever sets fire to vegetation masses shall be sanctioned with one to three years of imprisonment or its equivalent in day-fines or weekend arrest.

The penalty shall be increased from one fourth to one half in any of the following cases:

1. When loss of soil fertility or soil desiccation occurs.
2. When an area greater than five hectares is affected.
3. When the quality of plant life is significantly damaged.
4. When acting for economic benefit.
5. When protected areas or watersheds are involved.

Controlled burning authorized by the competent authority does not constitute a crime.

**ART. 408.** Whoever in contravention of the applicable legal provisions and exceeding the limits established in the technical standards generates emissions of noise, vibrations, gases, odors, thermal energy, light or of any other nature that cause serious damage to public health, flora, fauna or ecosystems, shall be sanctioned with two to four years in prison.



## Crimes Against Wildlife

ART. 409. Whoever fishes, hunts, kills, captures or extracts a resource or species of wildlife, aquatic or terrestrial, protected or in danger of extinction, without having the corresponding permits for such effects, or whoever having the referred permits does not comply with the specifications included in them, related to the quantity, age, dimensions or measures, shall be sanctioned with a prison sentence of two to four years.

The sanction shall be increased by one third to one half:

1. If it is done in a protected area.
2. If it uses an instrument or means that is not authorized or prohibited by the regulations in force.
3. If it is carried out outside the areas destined for such purposes.
4. If it is carried out during the closed period or season established to protect the species described in this article and its reproduction.
5. If it occurs in large proportions.

**ART. 410.** Whoever without authorization or permission from the competent authority traffics, trades, negotiates, exports, imports, re-exports or re-imports specimens of wildlife, endemic, vulnerable, threatened or endangered species or any genetic resource shall be punished with imprisonment of three to five years.

The penalty shall be reduced by one third to one half if the wildlife specimen or endemic, vulnerable, threatened or endangered species is returned to its habitat without any damage, before the initiation and investigation phase is concluded.

**ART. 411.** Whoever, without authorization from the competent authority or in violation of the regulations on the matter, introduces, uses or propagates wildlife species or biological or biochemical agents capable of significantly altering the animal or plant population or endangering its existence, shall be punished with a prison term of four to eight years.

Crimes of Territorial Urban Planning Processing, Approval and Enforcement.

**ART. 412.** The person duly authorized to conduct environmental impact studies, environmental audits or environmental adaptation and management programs, environmental management plans, forest management plans, forest inventories or other studies of a similar nature who knowingly incorporates or provides false or inaccurate information, or omits fundamental information, if by doing so he or she endangers human health or the environment, shall be sanctioned with imprisonment from two to four years.

The sanction shall be increased by one third to one half, if the conduct of the agent causes damage to human health or the environment or to any of its components.

ART. 413. The public servant who, with non-observance of the corresponding environmental regulations in the exercise of his or her functions, promotes the approval or approves an environmental impact study, environmental adequacy and management program or other document approved by the National Environmental Authority, shall be sanctioned with a prison term of two to four years.

**ART. 413A.** The public servant who grants permits or authorizations for works or projects in existing parks and squares that have a natural, environmental or cultural value at the national level that change the nature of their function and their public sphere to private shall be sanctioned with imprisonment from six months to two years.

**ART. 414.** The promoter or concessionaire who fails to comply with the environmental impact studies, environmental audits or environmental adaptation and management programs, environmental management plans, forest management plans, forest inventories or other documents of similar nature approved by the National Environmental Authority, or the resolution that approves them, shall be sanctioned with imprisonment from two to five years.

When the non-compliance causes serious damage to human health or to the environment or to some of its components, or to economic activities, the sanction shall be increased by one third to one half.

**ART. 415.** Whoever, knowing the irregularity committed, makes use of or derives benefit in any way from the conducts described in articles 413 and 414, even if he or she has not participated in its execution, shall be sanctioned as if he or she were the perpetrator.

**ART. 416.** The public servant who sells, donates, grants or in any other way awards tenancy or possession over all or part of a real property of public domain or that is part of a protected area shall be sanctioned with a penalty of five to ten years in prison.

**ART. 417.** The promoters, builders or technical directors who carry out unauthorized construction on land destined for roads, in easements of rivers or natural surface water courses, in green areas, in public domain property or in places whose landscape, ecological, artistic, historical or cultural value is legally or administratively recognized, or which for the same reasons have been considered of special protection, shall be punished with three to six years' imprisonment.

The promoter or concessionaire who initiates the execution of a work or activities subject to prior approval of the environmental impact study, forest management plan or other similar documents which, according to the law, are prior or conditional requirements to initiate the work or activity, without having obtained the approval of the corresponding competent authority, shall be punished with imprisonment of two to five years.

The penalty shall be increased by one third to one half if the conduct of the agent causes damage to the environment or to any of its components, to human health or to the national economy.

**ART. 419.** The authority or public servant who has approved building projects or the granting of licenses contrary to the norms of territorial planning or urban development regulations in force shall be punished with imprisonment of four to six years.

**ART. 420.** Whoever fails to comply with the existing regulations, builds or urbanizes, putting the environment or the life of the population at serious risk, shall be sanctioned with a prison term of two to four years.

### **Crimes against Domestic Animals**

ART. 421. Whoever, through acts of cruelty, causes death or serious injury to a domestic animal shall be sanctioned with a prison sentence of two to four years.

### **Common Provisions**

**ART. 422.** When the crimes provided in articles 401, 405, 407, 407, 414 and 421 are committed due to negligence, the penalty shall be reduced by one third to one half.

**ART. 423.** When a legal entity is used to promote, cause, subsidize or direct some of the punishable acts harmful to the environment, described in this Title, it shall be sanctioned with a minimum fine of five thousand Balboas (B./5,000.00) and a maximum of one hundred million Balboas (B./100,000,000,000.00), according to the severity of the environmental damage caused.

**ART. 424.** In the cases of articles 400, 407 and 409, the activities carried out for family subsistence shall be exempted from the penalty.

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