



**Asia-Pacific
Economic Cooperation**

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Fight and Corruption Prevention in Peru

Submitted by: Peru



**Workshop for Law Enforcement Agencies on
Effectively Using Corporate Compliance Programs
to Combat Domestic and Foreign Bribery
Puerto Varas, Chile
18-19 August 2019**

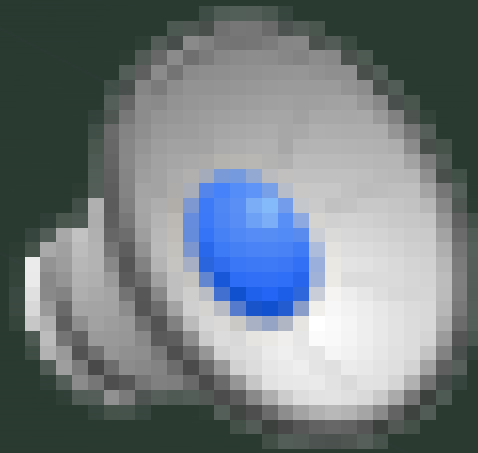
FIGHT AND CORRUPTION PREVENTION IN PERU



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Peruvian Anti-Corruption Prosecutor



ANTI-CORRUPTION PROSECUTORS OF
PERU
WHOEVER THAT FAILS





CORRUPTION

Corruption is the misuse of power to obtain irregular benefits, violating the law and affecting the legitimacy of the authority and the fundamental rights of the person.

(National Plan to Fight Corruption 2012-2016)



REGULATORY FRAMEWORK

- LAW 30424 – LEGAL PERSONS LIABILITY LAW (21.APRIL.2016) (ART.397°- A C.P.)
- SUPREME DECRET (FEB.2019) – REGULATION
- LEGISLATIVE DECRET 1352 (07.JAN.2017) (ART. 397° C.P.),
- LAW 30835 (02.AGOS.2018) (ART.384, ART.400 C.P.)
- LEGISLATIVE DECRET 1106 –EFFECTIVE FIGHT AGAINST MONEY LAUNDERING AND ORGANIZED CRIME.

REGULATORY FRAMEWORK

- RESOLUTION SBS N° 789 – 2018 (SUSPECT TRANSACTIONS).
- LAW DECRET 25475 -TERRORISM ART. 4°-A.
- LEGISLATIVE DECRET 1249 –MEASURES TO STRENGTHEN THE PREVENTION, DETECTION AND PUNISHMENT OF THE CRIME OF LAUNDRY OF ASSETS AND TERRORISM.
- LAW 3077 – ORGANIZED CRIME.
- PERUVIAN TECHNICAL RULE ISO 37001, ISO 19601, ISO 3100.

STRUCTURE OF THE COMPLIANCE CRIMINAL IN PERU

**Anti-Corruption
Asset
Laundering,
Terrorism
Financing**

BREACHES WITH CRIMINAL CONSEQUENCES FOR
CORRUPTION:

- TRANSNATIONAL ACTIVE BRIBERY.
- GENERIC ACTIVE BRIBERY
- SPECIFIC ACTIVE BRIBERY
- INFLUENCE TRAFFIC
- COLLUSION

TRANSNATIONAL BRIBE: CASE ODEBRECHT

Pago de sobornos por Odebrecht

Cantidades reconocidas por Odebrecht entre 2001 y 2016

En millones de dólares



ODEBRECHT

Odebrecht es un grupo brasileño, especializado en ingeniería y construcción, pero también con intereses en la energía y el sector petroquímico

Fuente: www.bez.es/Odebrechtcontaminalatinoamerica

AUTONOMOUS CRIMINAL RESPONSIBILITY OF THE LEGAL PERSON

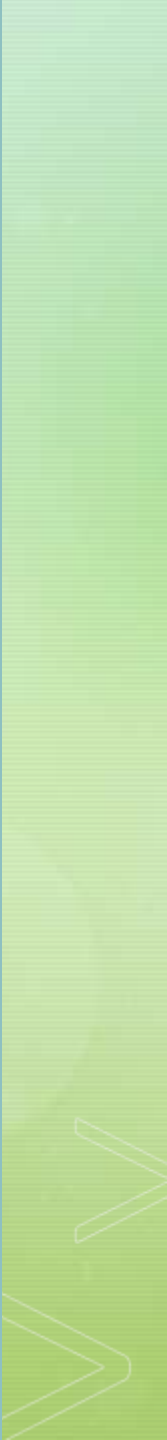
- ZERO IMPUNITY
- CRIMINAL LIABILITY: CRIME COMMITTED IN YOUR NAME AND ACCOUNT AND IN YOUR DIRECT OR INDIRECT BENEFIT.
- ATTENUANTS:
 - COLLABORATION,
 - PREVENT DAMAGE, REPAIR,
 - ADOPTION AND IMPLEMENTATION OF COMPLIANCE SYSTEM,
 - MINIMUM REQUIREMENTS OF COMPLIANCE SYSTEM,
 - CONFESSION

AGGRAVATING FACTORS

- USE OF LEGAL PERSON TO COMMIT OFFENSE CRIME.
- INSERT IN YOUR STRUCTURE AN ORGAN, UNIT OR AREA INTENDED TO COMMIT CRIME.



EXEMPT

- HAVE AN IDONEAOUS COMPLIANCE SYSTEM ACCORDING TO THEIR NATURE, SCOPE, STRUCTURE, ACTIVITY, RISKS, NEEDS AND CHARACTERISTICS, INTENDED TO PREVENT CRIME OR DECREASE, MITIGATE THE RISKS.
- 



GUIDING CONTEXT OF THE COMPLIANCE SYSTEM

- COMMITMENT
- POLICY.
- CULTURE
- SCOPE
- DUE DILIGENCE: IDENTIFICATION, EVALUATION AND MITIGATION OF RISKS.
- COMMUNICATION.
- TRAINING: INCIDENTS AND / OR COMPLAINTS REPORT CHANNELS.
- PROTECTION SYSTEM FOR THE INFORMANT AND / OR COMPLAINANT.
- EVALUATION AND CONTINUOUS MONITORING.

SANCTIONS

1. PENALTY FEE: PAYMENT WITHIN 10 BUSINESS DAYS OF SENTENCING
 - FOR THE PROFIT OBTAINED: 2 – 6
 - WHEN THE BENEFIT CANNOT BE ESTIMATED, IT IS CALCULATED BY THE ANNUAL INCOME OF THE COMPANY:
 - UNTIL 150 UIT: 10 - 50 UIT
 - + 150 UNTIL 1700 UIT: 50 -500 UIT
 - + 1700: 500 – 10000 UIT.

UIT= S/ 4200 / \$ 1250 US

SANCTIONS

2. DISABLING:

- SUSPENSION OF SOCIAL ACTIVITIES: 6 MONTHS TO TWO YEARS (OBLIGATORY IN PUBLIC PROCUREMENT)
- PROHIBITION OF ACTIVITIES OF THE SAME NATURE TO THAT IN WHICH THE CRIME WAS COMMITTED, FAVORATED OR HIDDEN (TEMPORARY: 1 TO 5 YEARS, OR DEFINITIVE)
- TO CONTRACT WITH THE DEFINITIVE STATE.

SANCTIONS

3. CLOSING:
 - TEMPORARY: 1 TO 5 YEARS
 - DEFINITIVE
3. CANCELLATION OF LICENSES, CONCESSIONS, RIGHTS.
4. DISSOLUTION: IT IS BORN TO FAVOR, FACILITATE OR COVER CRIMES

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**FISCALES ANTICORRUPCIÓN DEL
PERÚ**

RODEATE CON GENTE QUE TIENE,



LA MISMA MISIÓN QUE TU



THANK YOU

