

# COMPLIANCE IN BOLIVIA: TRENDS AND UPDATES IN 2023

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This report summarizes key developments in 2023 for the compliance field in Bolivia and includes links to primary sources.

## 1. REGULATORY UPDATES

### 1.1. Plurinational Policy Against Corruption

In February, the government approved the “Plurinational Policy Against Corruption: Towards a Digitalized and Transparent Public Management” (the “Policy”). The Policy aims to strengthen the fight against corruption at all levels of government and promote transparent public management. It provides recommendations and guidelines for best practices; it does not establish mandatory rules.

- Definition of Compliance

For the first time in Bolivian law, the Policy defines the term Compliance as “a set of procedures and best practices adopted by private organizations to identify and classify operational and legal risks they face and establish internal mechanisms for prevention, management, control, and response to these risks.”

- Coordination with the Private Sector

The Policy sets a medium-term goal to coordinate with private sector companies for the implementation of compliance mechanisms incorporating control, supervision, early detection, and timely reporting in their contracting processes.

- Public Procurement

The Policy emphasizes the importance of modifying public procurement rules to establish anticorruption clauses as a preventive measure in public contracts.

- Implementation of the Policy

In November, the Viceminister of Institutional Transparency and the Fight against Corruption, Susana Rios, reported that the Viceministry has initiated an awareness campaign to promote the incorporation of compliance systems into business management in the private sector. This involves developing integrity standards, best practices guides, codes of ethics, risk assessment mechanisms, due diligence, and reporting lines to prevent risks that may compromise the integrity of companies.

The policy is available at this [link](#).

### 1.2. Bill of Law 409-2022/2023 on Public Contracts

In June, Bill of Law No. 409-2022/2023 (“Bill 409”) was submitted to the Chamber of Representatives with the aim of “strengthening transparency and measures related to

the prevention of corrupt acts.” It proposes the creation of a Risk Management System.

Among the provisions of Bill 409, is the possibility of companies executing public contracts being part of an "enterprise integrity list" periodically published by the Viceministry of Institutional Transparency and the Fight against Corruption. To become part of the list, the companies must open a bank account and grant access to the Viceministry of Institutional Transparency and the Fight against Corruption. The creation of such an account could be considered a mitigating factor when considering corporate criminal liability, as stipulated by Law No. 1390 of August 27, 2021.

Additionally, Bill 409 introduces the obligation for public contracts, regardless of the contracting modality, to include an anticorruption clause. These clauses will require both parties to comply with current transparency and anticorruption regulations and policies.

Bill 409 is available at this [link](#).

### 1.3. New Instructive from the Financial Investigations Unit for Large Taxpayers in the Real Estate, Legal, and Accounting Sectors

In April, the Financial Investigations Unit ("FIU") approved a new instructive against Money Laundering, Terrorism Financing, and Financing of the Proliferation of Weapons of Mass Destruction, specifically designating large taxpayers in the real estate, legal, and accounting sectors as "Obligated Subjects."

Obligated Subjects must fulfill certain obligations with the FIU, including:

- Appointing a Responsible Officer to report suspicious transactions.
- Preparing internal audit reports.
- Creating an Internal Manual for the management of Money Laundering/Terrorism Financing and Financing of the Proliferation of Weapons of Mass Destruction risks.

Throughout the year, the FIU has conducted various workshops for these new Obligated Subjects and their Responsible Officers to familiarize them with the instruction and encourage compliance. While the regulations do not specify the penalties for non-compliance, the Business Supervisory Authority (AEMP) is responsible for overseeing compliance and imposing sanctions on Obligated Subjects.

Recently, on 6 December, through Administrative Resolution N° UIF/78/2023 the FIU modified a section of the new instructive, opening the possibility of regulating new Obligated Subjects in accordance with a schedule to be established by the FIU.

The instructive is available at this [link](#) and its modification is available in the following [link](#).



## 2. RELEVANT CORRUPTION CASES

Several corruption cases have been reported this year, many of which are still under investigation. Some implicated individuals have been detained preventively. Below we include summaries of notable cases, reflecting the risks associated with public contracts and the administration of justice in Bolivia.

- **Case – ABC and China Harbour Engineering Company (CHEC)**

In August 2022, MAS representative Héctor Arce reported the alleged payment of a bribe of BOB 18.3 million (approx. USD 2.5 million) to ten officials of the Bolivian Highway Administrator (ABC) by China Harbour Engineering Company (CHEC) in exchange for favoritism in the Sucre-Yamparáez dual-lane highway contracting process.

According to various statements and purported photo evidence, the CHEC manager reportedly met with the ABC evaluation committee and senior officials in a hotel in Sucre, Bolivia to determine the award of the project in exchange for the payment of BOB 18.3 million. Additionally, during this meeting, the CHEC manager allegedly provided an advance of BOB 9 million to the ABC officials.

The case drew more attention when, in March of this year, the protected witness in this case, Felipe Sandy, died in the United States after recording a video detailing alleged irregularities in the contract award process. He mentioned being a victim of threats and persecution by the Minister of Justice.

The Minister of Justice later announced that the CHEC manager involved in the corruption investigation was sentenced by the Ninth Court of La Paz for crimes of abuse of trust and misappropriation, based on a claim filed by CHEC. Investigations later confirmed that the CHEC manager returned the sum of BOB 9 million to the company.

Subsequently, the commission of prosecutors in charge of the corruption investigation ordered the dismissal of all accused persons, including the former manager of CHEC. The Public Prosecutor's Office of Chuquisaca stated that (i) there was insufficient evidence to prove the alleged irregularities in the contract award process, and (ii) the entire bidding process for the construction of the dual-lane highway was executed within the legal framework.

Moreover, the prosecutors leading the investigation stated that the BOB 9 million given in the hotel was an advance from ABC to CHEC for the execution of the works (contradicting previous reports that CHEC had given the funds to the ABC officials), and, therefore, did not constitute sufficient evidence to determine that the payment was a bribe.



- **Case – Alleged Corruption in YPFB Linked to Fuel Imports**

In March, former Minister of Government, Carlos Romero, reported four alleged corruption cases in the state-owned hydrocarbons company, Yacimientos Petrolíferos Fiscales Bolivia (YPFB) related to fuel imports.

The first claim alleges that YPFB stopped conducting public tenders and instead made direct invitations to its suppliers for fuel imports. The second claim relates to an alleged over-importation of fuel.

The third claim is related to commissions paid to importers, which allegedly increased significantly. According to Romero, these commissions went from USD 29.32 per cubic meter of imported diesel to USD 199.35 per cubic meter, and in some cases, up to USD 590 per cubic meter. In addition, an investigative journalist identified two companies that allegedly benefitted from the direct invitations and executed over-priced contracts.

YPFB explained that the increase was due to the war between Russia and Ukraine, and the commission value includes costs such as transportation, freight, and insurance, in addition to the intermediary's profit. The fourth claim suggests that fuel procurement fell into the hands of two companies that were accused of wrongdoing in the Lava Jato investigations.

According to Romero, the estimated economic damage to the state amounts to USD 2.2 million. Romero filed a claim against the president of YPFB for alleged crimes of derelict of duty and anti-economic conduct. However, the National Public Prosecutor's Office rejected the claim, stating that there was insufficient evidence demonstrating the alleged offenses.

- **Case – Judge and Other Public Officials Allegedly Asked for USD 10,000 to Dismiss a Case**

In March, a private citizen claimed to have been extorted by the Fifth Criminal Instruction Judge of El Alto, who requested a payment of USD 10,000 to dismiss a criminal case against the citizen.

The affected citizen presented a recording of over 50 minutes in which the accused judge coordinated the extortion with a Prosecutor's Office official. The citizen explained that two mediators and a prosecutor's office intern coordinated with the opposing party to extort her in exchange for issuing a resolution in her favor.

Concerning the claim, the Public Prosecutor arrested the accused judge and the Prosecutor's Office intern for the commission of extortion and conspiracy of judges, prosecutors, police, and lawyers. Preventive detention was ordered for the accused public officials. To date, the legal status of the other accused public officials has not been reported.

- **Case – Congressional Representative Allegedly Made 37 Transfers to Four Countries Worth USD 51 Million**

In March, the Public Prosecutor's Office of La Paz charged a congressional representative with the crime of money laundering, alleging that he had made transfers of USD 51 million to four countries.



The FIU reported suspicious transactions in the representative's accounts between 2018 and August 2021 to the Public Prosecutor's Office. During this period, the representative allegedly made 37 transfers. The representative told the prosecutor that the funds came from an old real estate business.

Based on the FIU's report, the Public Prosecutor's Office initiated investigations, leading to the formal charges. However, to date no significant progress has been reported.

- **Case – Ministry of Environment and Water**

In May, an alleged bribery scheme involving the Minister of Environment and Water and other ministerial authorities was revealed related to the award of works. Following the accusations, the Minister resigned. It was additionally alleged that relatives of the authorities and two companies collaborated in diverting the funds.

According to the claim, approximately BOB 19 million (approx. USD 2.7 million) in bribes were paid from November 2020 to January 2023. Currently, the former Minister and other officials are detained preventively, accused of illicit enrichment and money laundering. The claim is based on captured conversations and bank transactions involving the Minister in the irregular collection of funds and the acquisition of real estate through strawmen, including officials and relatives of the authority.

- **Case – Bolivian Soccer Federation**

In September, the Bolivian Soccer Federation ("BSF") filed a criminal claim with the Public Prosecutor's Office of La Paz for fraud and criminal association, alleging the existence of a corruption network among officials, referees, and players.

The claim was based on evidence supposedly demonstrating the involvement of these individuals in manipulating match results. Consequently, the BSF suspended the execution of various matches based on the understanding that several had been rigged. Currently, championships have been reinstated, but the investigation by the Public Prosecutor's Office continues.

### 3. OUTLOOK FOR THE NEXT YEAR

From the public sector perspective, it is expected that in 2024, the government will continue implementing its Plurinational Policy Against Corruption. The Policy outlines the following medium-term objectives:

- a) Development of an interoperable Risk Management System** enabling public institutions to identify vulnerable areas of corruption risks, implement prevention policies, corrective measures, or control mechanisms.
- b) Inclusion of anticorruption clauses in public contracts**, as foreseen by the Policy and Bill 409. The aim is for both the public and private sectors to commit to complying with anticorruption policies and regulations.
- c) Strengthening coordination with private sector companies** through the implementation of compliance mechanisms that include control, supervision, early detection, and timely reporting in contracting processes.





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Additionally, it is expected that the FIU will progressively be regulating new sectors that will be subject to the compliance of anti-money laundering dispositions.

## About PPO

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PPO is the law firm with the largest geographic coverage in Bolivia, with its own offices in five cities: La Paz, Cochabamba, Santa Cruz, Sucre and Cobija.

## Authors



**Lindsay Sykes**  
Partner

[lsykes@ppolegal.com](mailto:lsykes@ppolegal.com)



**Andrea Lizarraga**  
Senior Associate

[alizarraga@ppolegal.com](mailto:alizarraga@ppolegal.com)



**Fernanda Ribera**  
Associate

[fribera@ppolegal.com](mailto:fribera@ppolegal.com)



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## Contact

### **Santa Cruz**

Av. San Martín N° 155  
Edf. Ambassador Business Center  
Piso 18

### **Sucre**

Calle Bolívar N°326  
Centro Histórico

### **La Paz**

Av. Ballivián 555  
Edif. El Dorial,  
Piso 14

### **Cobija**

Avenida 16 de Julio  
N°149  
Centro

### **Cochabamba**

Calle Papa Paulo N°604  
Edificio Empresarial Torre 42  
Piso 6

### **Teléfono**

(+591) 620 02 020