

voice of EXPERIENCE

Praetorium will continue to focus on promoting the adoption of compliance among companies while providing innovative and effective legal solutions that support client productivity and adhere to sustainable practices.

Xavier Valverde Carcache
PRESIDENT,
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Can you elaborate on the definition of compliance and its legal objectives?

Compliance is an innovative legal tool aimed at preventing criminal activity in the business environment. It involves the implementation of policies, procedures, and controls to ensure compliance with legal requirements and prevent illegal activities such as corruption, fraud, money laundering, and other criminal activities. It is important to understand that every company is exposed to the possibility of committing crimes, either due to a lack of knowledge of laws or failure to identify vulnerable procedures. These crimes can be attributed to the company itself, its shareholders, or its legal representatives. This not only creates a legal problem for companies when their representatives face legal proceedings but also significantly damages the company's reputation, which can hinder future business opportunities. The ultimate goal of compliance is to protect companies, their stakeholders, and society from the harmful consequences of criminal activities.

How can Ecuadorian companies benefit from this specialized service offered by your firm?

Ecuadorian companies can greatly benefit from our compliance service. Companies that engage in our Compliance program are assigned a consultant who follows a strict process to identify vulnerabilities and potential criminal offenses in any department of the company. It is important to note that compliance covers all company activities, including all internal departments, from accounting, finance, and human resources to the least expected. By implementing this legal tool, companies can reduce their legal and financial risks, avoid penalties and fines, and improve their reputation and credibility. This not only focuses on keeping

companies free from legal issues but also helps them save costs that are entirely avoidable and enhance internal processes that can improve the productivity and profitability of their business activities. Additionally, in the current global landscape, having compliance in place can facilitate access to new markets or even provide a competitive advantage in bidding for contracts, thereby increasing the company's competitiveness.

What are the main strategies being implemented by the legal sector to raise awareness among companies about the importance of compliance?

The legal sector is implementing various strategies to increase awareness of the importance of compliance. One of these strategies is providing training and education to companies and their employees on legal and ethical requirements for compliance. Another strategy that has proven successful is sharing common examples of practices within companies that may lead to the commission of criminal offenses and how to prevent them through compliance. Furthermore, the competitive advantages of having compliance in countries where the compliance culture has been established for a longer period are also presented.

What competitive advantage makes Praetorium one of the leading firms in the legal field?

Praetorium offers a variety of legal services to our clients, including corporate law, agricultural law, environmental law, and litigation. Our extensive experience in the business field allows us to provide a strategic and multidisciplinary approach to the legal issues that companies face, enabling us to offer practical and effective solutions to our clients. We are committed to supporting companies in comply-

ing with legal and ethical standards while enhancing their productivity and competitive position in the global market.

What are the main goals of the firm for 2023?
Our main goal for 2023 is to encourage more companies to adopt the compliance mechanism, thereby enhancing the competitiveness of each of these companies and, on a macro level, promoting greater economic growth and an improved global reputation for our country. Additionally, we are committed to staying up to date with the latest legal developments and trends. This ensures that we can provide our clients with the most effective and innovative legal solutions that boost their productivity, always adhering to sustainable best practices. ✖

BIO

Xavier Valverde Carcache is a lawyer from Ecuador pursuing a master's degree in state law with an emphasis on natural resources at Externado University of Colombia. Currently, he is also being considered as a candidate for a PhD at the Catholic University of Argentina. He had a successful incursion in public service as an advisor to the environment minister and was also an undersecretary of marine and coastal management in the same government. In early 2019, he became part of Hoban Law Group, one of the most prestigious firms specializing in advisory regarding the cannabis industry and was appointed its representative in Ecuador.



COMPLIANCE: A VITAL IMPULSE FOR THE FUTURE OF THE PRODUCTIVE SECTOR OF ECUADOR AND LATIN AMERICA

ALTHOUGH Ecuador has stood out in global markets for the quality of its products, it is important to recognize the need for companies in the country to position themselves with a good reputation and to provide guarantees about their integrity and denouncement of corruption. In an increasingly interconnected and regulated world, compliance must be central to achieving this objective and strengthen the global position of the agricultural sector of Ecuador and other Latin American countries. Major powers and international markets, from Europe and Asia to the US, value business ethics and regulatory compliance as essential requirements for establishing business relationships. In this article, we will explore how compliance can be an essential driver for Ecuadorian companies, opening doors to new markets and strengthening their position in the international arena.

THE INTEGRATION OF COMPLIANCE IN ESG: A SUSTAINABLE AND RESPONSIBLE APPROACH

Regulatory compliance is not limited to the legal and regulatory field. Currently, companies face new challenges related to sustainability and social and cultural responsibility. This is where compliance finds synergy with the ESG environmental, so-

cial, and governance (ESG) approach. The inclusion of compliance in the ESG implies that companies must ensure compliance with rules and regulations related to environmental protection, respect for human rights, biodiversity, and equal opportunities. This integration not only has a positive impact at the micro level, strengthening the image and reputation of companies, but also at the macro level, promoting a more sustainable and responsible business environment in countries' economies.

In the case of Ecuador, these practices must ensure economic, social, and cultural enrichment, through which we guarantee compliance with food sovereignty as a means of eradicating poverty and improving the lives of Ecuadorians. Although it is true that compliance has not been widely adopted in Ecuador, its importance must be recognized, and work must be done to ensure that companies apply these practices.

An important and current example of the importance of corporate ESG and compliance is the recent Green Pact Against Deforestation in Europe, through which the EU legally pressures companies to do business only with companies that contribute to stopping deforestation and forest degradation around the world. In light of this, Ecuador could have a great oppor-

tunity through a new local initiative called Free Green for Deforestation. Member companies are held to obligations that will get them preferential treatment when entering the European market.

COMPLIANCE TO POSITION THE ECUADORIAN AGRICULTURAL SECTOR INTERNATIONALLY

Although the country has already managed to stand out in international markets for the quality and freshness of its products, it is crucial to understand that guaranteeing the absence of corruption and having globally recognized practices becomes essential to consolidating business success. Global acceptance of compliance as a prerequisite to establishing business relationships demonstrates the importance of maintaining high ethical standards and transparency in business operations.

In a global context, more and more countries and markets recognize the importance of compliance as a fundamental standard for good corporate governance and management to minimize risks when establishing a business relationship.

In Europe, for example, high standards of integrity and data protection are required, and companies must comply with regulations such as the General Data Protection Regulation (GDPR).

Similarly, in Asia, and especially in countries like Japan and Singapore, transparency and the fight against corruption are key elements in establishing commercial alliances. In the US, the Foreign Corrupt Practices Act (FCPA) has led US and foreign publicly traded companies to strengthen their compliance programs to avoid legal penalties and protect their reputations.

CHALLENGES FOR THE IMPLEMENTATION OF COMPLIANCE IN ECUADOR

Although Ecuador is still in the initial stages of fully adopting compliance, it is essential to recognize its importance and the benefits it can bring to the local and regional economy. The implementation of compliance implies the prevention and detection of illegal conduct, including fraud, bribery, and corruption. Likewise, it promotes a culture of compliance at all levels of the organization, establishes confidential reporting channels, and applies monitoring and control mechanisms. These actions not only safeguard the integrity of the companies, but also build customer trust and attract investment.

To successfully adopt compliance in Ecuador, it is essential that companies carry out a thorough assessment of the specific risks and vulnerabilities they face. Based on this, policies and procedures must be

established to ensure compliance with applicable laws and regulations. In addition, it is necessary to train and make employees aware of the importance of regulatory compliance and establish confidential reporting channels to promote a culture of transparency and ethics in the organization.

Likewise, the government and regulatory institutions play a crucial role in fostering and promoting this new figure in the country. It is necessary to establish clear and effective regulations that encourage companies to implement compliance programs. In addition, supervision and control mechanisms must be strengthened to guarantee effective compliance with rules and regulations, as well as impose adequate sanctions on those companies that do not comply with ethical and legal standards.

COMPLIANCE IS ALREADY ADDRESSED IN ECUADORIAN LAW

It is important to highlight that Ecuadorian legislation already takes compliance into account as a very important tool. It was applied in 2022 through the Comprehensive Organic Criminal Code as a means of exemption from criminal liability for legal persons before a criminal charge.

In conclusion, the global acceptance of

compliance is needed to establish commercial relations, and the integration of compliance in the ESG approach shows that regulatory compliance and social and cultural responsibility are aspects that are increasingly valued by businesses at an international level. We are globally positioned to benefit from these developments thanks to the high quality of our agricultural exports, but it is time for our companies in the sector to compete internationally on equal terms with these important and widely used mechanisms.

The implementation of compliance strengthens the reputation of companies, improves their business relationships, and contributes to a more ethical and transparent business environment. It is essential that Ecuadorian companies recognize the relevance of compliance and work on its implementation to ensure sustainable growth and a competitive position on the global stage.

With the combined effort of the business sector, the government, and regulatory institutions, Ecuador can move towards a future in which compliance is an essential practice in the country's agricultural sector, generating great commercial and economic benefits for those Ecuadorian companies that wish to capture European and American markets. ✖

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