

## CHAPTER 3

# Armenian “Hero” of Panama Papers Becomes a Fighter Against Corruption

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*Armenia’s Special Investigative Service (SIS) dropped the offshore business case against former Chief Compulsory Enforcement Service Officer Mihran Poghosyan in January last year. Since then, the Investigative Journalists NGO has been struggling to get a copy of the SIS’s decision on dropping the case. They want to understand and convey to the public why the scandalous disclosure is being covered up by the law enforcement body.*

The Chief Compulsory Enforcement Officer is in charge of overseeing that all court rulings are properly enforced, a job that requires extensive knowledge of the ins and outs of Armenia’s laws, rules and regulations. Nonetheless, Major General of Justice Mihran Poghosyan, Armenia’s former Chief Compulsory Enforcement Officer, was among the country’s group of officials who had planted deep roots in offshore economic zones.

Where his companies, which were registered in those zones, operated Poghosyan used his position to advance his business interests, all the while concealing his income. The SIS says that its investigation into the offshore business interests of Poghosyan failed to reveal any incriminatory evidence of wrongdoing.

Citation: Aghalaryan, K. (2019). Armenian “Hero” of Panama Papers Becomes a Fighter Against Corruption. In R. Krøvel & M. Thowsen (Eds.), *Making Transparency Possible. An Interdisciplinary Dialogue* (pp. 37–42). Oslo: Cappelen Damm Akademisk. <https://doi.org/10.23865/noasp.64.ch3>  
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## A Panama Papers resignation

The investigative journalist collective wrote in the news outlet, Investigative Journalists of Armenia (Hetq), about Poghosyan's shady financial dealings in Panama and his Swiss bank accounts in April 2016, using data uncovered in the Panama Papers. The data was (first) obtained by the German newspaper *Süddeutsche Zeitung* and shared by the International Consortium of Investigative Journalists (ICIJ) with the Organized Crime and Corruption Reporting Project (OCCRP) and more than 110 media partners from 82 countries, including Hetq.

While the Ethics Committee of Armenia is entitled to order an investigation based on these findings, the body failed to do so, arguing that it first needed a third party petition.

On 8 April 2016, Armenia's Transparency International Anti-Corruption Center (TIACC) filed such a petition. They requested the Ethics Committee for High-Level Officials launch a case to investigate the offshore business dealings of Major General of Justice Mihran Poghosyan, head of the Armenia's Compulsory Enforcement Service.

Mihran Poghosyan tendered his resignation on 18 April. The Compulsory Enforcement Service issued the following statement on behalf of Poghosyan:

My name has recently surfaced in the Armenian and international press regarding the Panama offshore matter. I am saddened that my name is being raised alongside the family of Azerbaijani President Ilham Aliiev, who has actually privatized billions of dollars. I find it unacceptable that I might be the reason for any possible comparison to be drawn between my country and despotic Azerbaijan. Thus, I have tendered my resignation. I will publicly respond to the offshore reports as a civilian, with no state leverage at my disposal.

The Ethics Committee of High-Ranking Officials subsequently decided to refrain from taking any action regarding Mihran Poghosyan. They argued that the General Prosecutor's office was examining the case and would send it to the appropriate law enforcement bodies to proceed.

On 2 May, the Special Investigative Service of the Republic of Armenia instituted a criminal case against the former Chief Compulsory Enforcement Officer. The criminal case was launched under the requirements of

Article 310 of the RA Criminal Code (illegal participation in entrepreneurial activity). Soon after that, Mihran Poghosyan started to "clean up" the offshore traces of his Armenian companies by removing companies registered in Panama from the shareholders list.

The SIS told reporters from Hetq that on 11 January 2017 Switzerland had turned down its request for legal assistance in the case. No details were given. The SIS also alleged that it had not received any word from Panama regarding its request for legal assistance in the Poghosyan investigation.

The criminal case filed against Poghosyan by the SIS is thus a non-starter. Soon SIS ended the probe into Mihran Poghosyan's Panama Papers scandal for "lack of evidence".

## **"Lack of evidence" or "the request had not been fulfilled ..."**

SIS Press Secretary Marina Ohanjanyan told Hetq that the decision to drop the case against Poghosyan was due to the refusal of legal assistance by Switzerland and Panama.

However, the Swiss Federal Department of Justice told Hetq and its partner OCCRP that they turned down the Armenian request for legal assistance on 8 November 2016 because the requirements of the request were not fulfilled. However, "The Armenian authorities can at any time specify the request," the email from Ingrid Ryser, a spokesperson for the Swiss Federal Department of Justice, added.

In the 2017 parliamentary elections in Armenia Mihran Poghosyan was elected a member of Parliament. He was appointed by the Republicans in Armenia, the ruling party at that time. As an MP, he then had political immunity. This case clearly illustrates that in Armenia, friendly and family connections very often prevail over the law.

Mihran Poghosyan got his position in June 2008, after the Republican Party leader Serge Sargsyan became president. The Armenian press has written many times that Poghosyan's two uncles are Serzh Sargsyan's close friends. The friendship of this trio also derives from their Karabakh origins.

## Unable to provide information in the public interest

On 4 September, a Yerevan court rejected a suit filed by the Investigative Journalists NGO to force the Special Investigative Service (SIS) to hand over a copy of its decision to drop a criminal investigation into the off-shore business interests of Poghosyan.

Last January the SIS, quoting Article 262, Part 1, of Armenia's Criminal Procedure Code, said that copies of a decision to drop or halt criminal proceedings are sent to the suspect, the accused, the defense lawyer, the injured party or their representative, the civil plaintiff/defendant, or their representative. According to the law, a copy is also sent to an individual or legal entity upon whose statement the criminal investigation was launched in the first place. The SIS argued that the Investigative Journalists NGO (which publishes Hetq) cannot be provided a copy of the decision since the news outlet is none of the above.

The NGO's lawyers, in their suit, argued that Hetq requested the copy in order to carry out its mission to provide information in the public interest. Public interest is a priority here, because society should know what steps and actions have been taken to resolve this scandalous off-shore story. It should be considered a democratic right to know how the law enforcement body justifies its decision not to punish an official who had businesses registered offshore.

The Investigative Journalists appealed this case to the Court of Appeals. The appeal was rejected too, on 26 December 2017, with the same argument that a copy of the decision is sent to an individual or a representative of the legal entity upon whose statement the criminal investigation was launched. Hetq, as a legal entity, had not submitted any statement, the Court of Appeals said.

The body conducting the criminal proceedings initiated a criminal case on its own initiative, based on the materials published by [www.hetq.am](http://www.hetq.am). Consequently, the court concluded, the body responsible for the proceedings, in this case the SIS, has no obligation to provide a copy of the decision on dropping the criminal case.

In the past, Hetq has been sent copies of decisions to drop criminal proceedings that were launched based on Hetq articles, for example,

about violations of law during elections and monkey smuggling. The Hetq editorial office was sent copies of these decisions, even though Hetq did not report on the crime to the law enforcement agencies and did not even ask for these decisions in writing.

In the meantime, Poghosyan continues to affirm that he was not involved in any offshore business deals. Furthermore, he frequently gives “anticorruption related” interviews to journalists, posing as a fighter against corruption.

## Armenia re-opens Panama Papers case after the Velvet Revolution

Following the Spring 2018 “Velvet Revolution” in Armenia, Hetq attorney Ara Ghazaryan again petitioned the SIS for their decision. This time, they complied.

It has taken almost two years and two legal suits, but Armenia’s Special Investigative Service has finally provided Hetq with its decision to drop the “offshore” criminal investigation of Mihran Poghosyan, Armenia’s former Chief Compulsory Enforcement Officer. The decision document confirms Hetq’s original suspicion that the SIS dropped the investigation due to political expediency and merely went through the motions of conducting an investigation. The SIS questioned only Poghosyan and his relatives, taking their denials of any wrongdoing at face value.

Poghosyan testified that in 2011, Eduard Harutyunyan, a distant friend, asked for his help in founding international organizations. According to Poghosyan, Harutyunyan wanted to set up a company in Armenia with international backers. Harutyunyan wanted the Armenian firm to be credible. Poghosyan testified that he acceded to the request and contacted a man called Richard Varchuk, who had the authority to create offshore companies. Poghosyan instructed him to set up companies in Panama registered in Harutyunyan’s name. Varchuk did as instructed, but since Poghosyan was the applicant, the new companies were mistakenly registered under his name, not Harutyunyan’s. Poghosyan testified that he was never aware of this since the companies were never active. Poghosyan claimed he did not even know the names of the companies. Poghosyan

testified that he only found out about the registration name mix-up after Hetq published its story. Harutyunyan backed up his testimony.

SIS Senior Investigator D. Kostandyan could have gone online to research the primary data held by the ICIJ or Hetq to find out how Poghosyan's 100% share ownership certificate was written up and later surfaced online. He could have requested that the ICIJ provide him with the relevant emails in order to shed light on correspondence between Mossack Fonseca lawyers and Poghosyan and the various documents shipped to Armenia.

These documents also include scanned copies of passports belonging to the individuals in question. It is highly unlikely that such copies were sent to Mossack Fonseca without their knowledge. In addition, money was transferred for these legal services. The SIS could have, if it wanted to, requested information about these transfers. Senior Investigator Kostandyan did send an inquiry about the offshore companies to Armenia's Central Bank, but his request was rejected. The bank said it did not have the authority to provide such secret bank data.

The investigator had started down the wrong path of inquiry from the beginning since the SIS had already decided to drop the case against Poghosyan. The charges against Poghosyan would have included money laundering, and the Central Bank would then have been obligated to provide the information. The SIS conducted no investigation into this matter. They believed Poghosyan when he testified that no bank account had been opened by him. SIS has since reopened a Panama Papers related case after a new government came into office.