

PRESS RELEASE

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Subject **CMS publishes 3rd Guide to Anti-Bribery and Corruption Laws**

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CMS publishes 3rd Guide to Anti-Bribery and Corruption Laws

Study of global anti-corruption laws reveals strengthening legislation and wider scope for prosecution in Europe and the BRIC nations

Over 40 per cent of European and BRIC countries have strengthened their anti-corruption legislation since 2011, by widening the scope of their laws or increasing penalties, according to research by CMS, a leading global law firm.

CMS announced the publication of the third edition of its guide to Anti-Bribery and Corruption Laws, a comparative survey of the anti-corruption legislation of 26 countries across Europe, including the BRIC countries.* Of the 22 countries which were included in both the 2013 and the 2011 study, 9 (41 per cent) have strengthened their anti-bribery and corruption laws over the past two years (Austria, Czech Republic, France, Hungary, Italy, Poland, Russia, Switzerland and Ukraine).

“Although there is no universal anti-corruption standard by which conduct can be judged illegal, the hardening attitude toward corruption has led to increasing convergence as to the sorts of conduct that are criminalised, but not how they are criminalised. Simultaneously, we have seen countries increasingly seek to enforce laws against bribery and corruption extra-territorially. Against this backdrop, it is more important than ever for companies to be fully aware of the legal implications of their activities, both at home and abroad, and actively to institute measures to combat corrupt activities,” said Daniela Karollus-Brunner, Partner and expert for anti-corruption law at CMS in Vienna.

One of the most significant revisions to anti-corruption legislation was seen in Austria, where the Austrian Penal Code was amended to increase the scope for prosecution of corruption and widen the definition of “public officer” to include more categories of persons. The Czech Republic has also expanded liability for corrupt practices to legal entities for the first time, even allowing for the dissolution of the entity in extreme cases.

Other key findings include:

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- The majority of countries (95 per cent) now criminalise the corrupt practices of foreign citizens resident in their country for bribery committed beyond their borders. In 2011, the figure was 15 out of 22 countries (68 per cent).
- Over half of the countries surveyed also maintain the ability to prosecute local companies and organisations for acts of corruption committed by a foreign subsidiary.
- Britain, Italy and (to an extent) Portugal offer companies a defence against prosecution if they put in place measures to prevent corruption, while Russian companies are now obliged to institute anti-bribery procedures. Among the 26 countries surveyed in 2013, Russia is unique in *requiring* businesses to have internal controls.
- All of the countries surveyed outlaw public sector corruption and only two (India, and Bosnia & Herzegovina) do not criminalize private sector bribery.

* Albania, Austria, Belgium, Bosnia and Herzegovina, Brazil, Bulgaria, China, Croatia, Czech Republic, France, Germany, Hungary, India, Italy, The Netherlands, Poland, Portugal, Romania, Russia, Serbia, Slovakia, Slovenia, Spain, Switzerland, Ukraine, United Kingdom.

Facilitation payments are illegal to a greater or lesser degree in all of the countries surveyed for the guide, although Switzerland only criminalises them in respect of Swiss public officials, not foreign officials. However, there is no universal agreement among nations as to whose conduct is criminalised in the context of public sector corruption. In some countries, only the public official can be prosecuted, whereas elsewhere it can be either the briber or both briber and official.

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Contact us to order a copy of the Guide or talk to one of our experts.

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