

CMS Guide to Anti-Bribery and Corruption Laws

How can we help

Bribery law

Our lawyers advise on all aspects of bribery law and related risks issues, including money laundering and fraud. We have specialist, in-depth experience of advising on and conducting complex internal and external investigations and in dealing with regulators and prosecutors where problems are identified, across a range of industries. We assist clients in developing procedures to meet their legal and regulatory obligations, and can help implement improvements to systems in any areas where risks have been identified. We work with our clients to understand and manage risk, protect reputation, and put robust procedures in place.

Internal and external investigations

As our team regularly advises clients in connection with internal and external investigations, they see first hand where client processes have failed or fallen down, or where gaps in those processes have enabled rogue staff and others to exploit them for improper ends. This experience informs our advice to clients in developing robust anti-bribery controls and procedures.

Training programmes and seminars

We also assist clients in developing and delivering training programmes and seminars, including bespoke training programmes to form part of a corporate compliance model. This also includes developing e-learning training solutions for global clients with large international workforces.

Dispute resolution service

CMS is one of the largest providers of legal services across the globe operating in 43 countries from 75 offices worldwide across Europe, Middle East, Asia, South America and Africa and is a leader in all areas of dispute resolution. Whatever the nature of your dispute, across the globe, our expertise and experience can help you resolve it successfully.

For more information on our dispute resolution services, please contact: disputes@cmslegal.com

Anti-Corruption Zone

www.cms-lawnow.com/aczone



The Anti-Corruption Zone offers you a "one-stop shop" for useful legal resources, information on training, the UK Bribery Act and the latest news on UK corruption issues.

The sole purpose of this publication is to provide a broad overview and comparison of the anti-corruption laws across the countries covered in this guide. It makes no claims to completeness and does not constitute legal advice with respect to any set of facts. The information it contains is no substitute for specific legal advice. If you have any queries regarding the issues raised or other legal topics, please get in touch with your usual contact or the authors of this publication.

Contents

Introduction	4	Montenegro	55
		The Netherlands	57
Africa	6	Poland	58
Kenya	7	Portugal	59
Nigeria	9	Romania	61
South Africa	13	Russia	62
		Serbia	63
Asia Pacific	14	Slovakia	64
Australia	15	Slovenia	65
China	17	Spain	68
India	19	Switzerland	70
Indonesia	21	Turkey	73
Malaysia	22	Ukraine	74
Singapore	24	United Kingdom	78
Thailand	26		
		The Middle East	80
Europe	28	Oman	81
Albania	29	Saudi Arabia	83
Austria	30	United Arab Emirates	85
Belgium	33		
Bosnia and Herzegovina	35	South America	88
Bulgaria	37	Brazil	89
Croatia	40	Chile	91
Czech Republic	42	Colombia	94
France	43	Mexico	96
Germany	46	Peru	99
Hungary	47		
Italy	49	Contacts	101
Luxembourg	52	International coverage	106
Monaco	53	CMS at a glance	107

Introduction

I am delighted to present the sixth edition of the CMS Guide to Anti-Bribery and Corruption Laws.

This edition of the Guide covers more countries than ever before, assessing the laws in 45 countries. We include full coverage of the BRIC nations, as well as Asia (China, Singapore, Thailand, Malaysia and Indonesia), the Middle East (the UAE, Saudi Arabia and Oman), South America (Brazil, Mexico, Chile and Colombia) and increased coverage in Africa (Kenya, Nigeria and South Africa).

The global anti-corruption landscape is ever evolving and we have seen many significant changes since we published the last edition of the Guide in 2018. Many of the countries in the following pages have updated, strengthened and widened the scope of their anti-corruption laws. For example, the introduction of the Bribe Destroyer Law in Italy in 2019 has resulted in more severe penalties, a widening of the definition of public officials to include those working in public international organisations and the introduction of a new offence of undue trading of influence, which attracts criminal corporate liability.

More generally, we have seen more countries introducing corporate liability for bribery offences. In both India and Malaysia, the law has been updated to include a corporate offence (with an adequate procedures/compliance defence). We have also seen a trend of increasing the level of maximum penalties available for bribery offences, with harsher penalties being made available to prosecutors in 11 jurisdictions spanning four continents (although bucking the trend we have seen maximum penalties reduced in Switzerland and the Netherlands).

The majority of countries provide for private sector bribery offences, with only six having offences that only apply to bribing public sector officials. Almost all countries recognise the concept of corporate liability for bribery (with the exception of Oman, where only individuals can be prosecuted), albeit that in six jurisdictions only civil or administrative penalties can be applied to corporates (Brazil, Bulgaria, Colombia, Germany, Hungary and Mexico). Eight countries (Australia, Chile, India, Italy, Kenya, Malaysia, Switzerland and the UK) now provide for a specific corporate offence whereby a corporate will be criminally liable for failure to prevent representatives committing bribery on its behalf.

As with previous editions, in this Guide we provide answers to the following key questions for each of the 45 countries:

- What are the offences?
- Who can be liable and when?
- What are the penalties?
- What are the defences?

We hope you find the Guide useful.

We wish to thank all those who have contributed to this Guide. We would also particularly like to thank contributors from:

- **Corrs Chambers Westgarth**, Australia's leading law firm, for contributing the chapter on Australia.
- **Feras Al Shawaf**, CMS' partner firm in Saudi Arabia, for contributing the chapter on Saudi Arabia.
- **Khaitan & Co.**, the leading Indian law firm with offices in Mumbai, New Delhi, Kolkata and Bangalore, for their continued contribution to the Guide.
- **Rajah & Tann Asia** (a transnational law firm, with offices across Asia) for contributing chapters on Thailand, Malaysia and Indonesia.
- **Udo Udoma & Belo-Osagie**, a leading firm in Nigeria, with offices in Lagos, Abuja and Port Harcourt, for contributing the chapter on Nigeria.

Contact details of all our key contributors are at the back of this Guide. Please do not hesitate to contact them with any questions you may have.

To navigate between countries, please click the ☰ icon to return to the contents page. The 📍 icon will take you to a menu for your current region.



Omar Qureshi
Head of Corporate Crime
CMS UK



Africa

Kenya	7
Nigeria	9
South Africa	13

Kenya

Source of law	<i>Bribery Act (Act No. 47 of 2016)</i>	<i>Anti-Corruption and Economic Crimes Act (Act No. 3 of 2003) (ACECA)</i>
Offence	<ol style="list-style-type: none"> Active offence of offering, promising, or actual giving of an advantage to another for the improper performance of a function or activity (s5). Passive offence of requesting, agreeing to receive or receiving an advantage (s6). Corporate offences <ul style="list-style-type: none"> A private entity's failure to prevent bribery (s10). A senior official's consent or connivance to a private entity's failure to prevent bribery (s9(2)). Duty to report: any person who is aware or suspicious of the commission of an offence under the Bribery Act is under an obligation to report it. Failure to report is an offence (s14(2)). 	<ol style="list-style-type: none"> Public officer offence of giving or receiving secret inducements for advice or information (s40). Conflict of interest, an agent's failure to disclose a conflict of interest while continuing to participate in a transaction (s42). Improper benefits to trustees for their appointment or for joining or assisting in such appointment (s43). Bid rigging which interferes with public procurement (s44). Engaging in economic crime with regard to public property or revenue, such as mismanagement or misappropriation (s45). Abuse of office to confer a benefit on oneself or another (s46).
The bribe		
Is there a presumption that any advantage was given/received corruptly?		✓
Would facilitation payments be caught?		✓ ¹
Would corporate hospitality be caught?		✓ ²
Is there any <i>de minimis</i> ?		X
Does the bribe have to be monetary?		X ³
Public officials		
Does the offence only apply to bribing public officials?		X ⁴
Acts performed outside Kenya		
Can bribery performed outside Kenya be caught?		✓ (s15 of the Bribery Act)
Does the act also need to be illegal in the foreign country of performance?		✓ ⁵
Who can be liable		
Kenyan national?		✓
Kenyan company?		✓
Kenyan partnership (including limited liability partnership)?		✓
Director of Kenyan company?		✓ ⁶
Kenyan company if the bribe is committed abroad by its foreign subsidiary?		✓ ⁷
Foreign subsidiary of a Kenyan company if the bribe is committed abroad?		✓ ⁸
Foreign national/company/partnership if the bribe is committed in Kenyan?		✓
Foreign national domiciled or "ordinarily resident" in Kenya if the bribe is committed outside Kenya?		X (only Kenyan citizens – s15 Bribery Act)
Foreign company/partnership if the bribe is committed abroad?		X

Kenya (continued)

Penalties	Bribery Act	ACECA
Penalties include:	<ol style="list-style-type: none"> Individuals found guilty of offences under s5, 6 or 13: <ul style="list-style-type: none"> Imprisonment for a term not exceeding 10 years; or a fine not exceeding USD 50,000; or both; and A mandatory fine if the offence led to a person gaining a quantifiable benefit or another incurred a quantifiable loss. The fine shall be 5 times the amount of the gain or loss and 5 times the sum of the gain and loss where both occurred. Any other person – committing an offence under s5, 6 or 15 – a fine not exceeding USD 50,000. A person or private entity if guilty under s10, a fine that shall be both punitive and deterrent. The Court may order the person to pay back the amount or value of the advantage to the Government. Confiscation of any property acquired as a result of the advantage. State or public officers can be barred from holding public office. Directors of a company/partners of a firm can be barred from holding such position in Kenya for not more than 10 years. Legal persons can be disqualified from transacting business with the national or county Government for a maximum 10 years. There is also a general penalty where one is not provided of imprisonment for a term not exceeding 10 years; or a fine not exceeding USD 50,000; or both. 	<p>For all offences:</p> <ol style="list-style-type: none"> A fine not exceeding the equivalent of USD 10,000; or imprisonment for a period not exceeding 1 year, or both; and a mandatory fine if the offence led to a person gaining a quantifiable benefit or another incurred a quantifiable loss. The fine shall be 2 times the amount of the gain or loss and 2 times the sum of the gain and loss where both occurred.
Defences		
Are there any defences available?	✓ ⁹	

¹ S2 of the Bribery Act defines an “advantage” to include “any facilitation payment made to expedite or secure performance by another person”.

² If intended to affect the person’s ability to act in good faith, impartially and/or in a position of trust.

³ S2 of the ACECA defines a “benefit” to include “any gift, loan, fee, reward, appointment, service, favour, forbearance, promise or other consideration or advantage”. S2 of the Bribery Act provides a wide meaning of the word “advantage” to include among other things, any office, employment or contract; any service or favour including protection from any penalty or disability incurred and any facilitation payment.

⁴ The ACECA targets public officers, while the Bribery Act targets all persons. However, prosecutors will often charge public officials under the Bribery Act as read with ACECA.

⁵ If the suspect or accused is a foreign public official. In this case, it must be proven that the official is not permitted or required to be influenced under the laws applicable to him or her (s8 of the Bribery Act).

⁶ For instance, where a company fails to prevent corruption with the consent or connivance of a director.

⁷ S15 of the Bribery Act includes liability for acts committed by associated persons. An associated person is defined under s11 of as a person acting on behalf of another. According to s11(2), this would be determined on a case by case basis, to establish whether the subsidiary was acting on behalf of the parent company.

⁸ Given that the subsidiary itself is a “private entity” as defined by s2 of the Bribery Act.

⁹ Proof of procedures and policies to prevent corruption.

Nigeria

Source of law	
Code of Conduct Bureau and Tribunal Act 1991 (the Act)	
Offence	<p>A. Gifts or benefits in kind (s10)</p> <p>(1) A public officer shall not ask for or accept any property or benefits of any kind for himself or any other person on account of anything done or omitted to be done by him in the discharge of his duties.</p> <p>(2) The receipt by a public officer of any gifts or benefits from commercial firms, business enterprises or persons who have contracts with the Government, shall be presumed to have been received in contravention of (1) unless the contrary is proved.</p> <p>(3) A public officer shall only accept personal gifts or benefits from relatives or personal friends to such extent and on such occasions as are recognised by custom: Provided that any gift or benefit to a public officer on any public or ceremonial occasion shall be treated as gifts or benefits to the appropriate institution represented by the public officer, and accordingly, the mere acceptance or receipt of any such gift or benefit shall not be treated as a contravention of the provision.</p> <p>B. Bribery of public officers (s12)</p> <p>No person shall offer a public officer any property, gift or benefit of any kind as an inducement or bribe for the granting of any favour or the discharge in his favour of the public officer's duties.</p> <p>C. Agents and nominees (s17)</p> <p>A public officer who does any act prohibited by the Act through a nominee, trustee or other agent shall be deemed ipso facto to have committed a breach of the Act.</p>
The bribe	
Is there a presumption that any advantage was given/received corruptly?	✓ ¹
Would facilitation payments be caught?	✓ ²
Would corporate hospitality be caught?	✓
Is there any <i>de minimis</i> ?	X
Does the bribe have to be monetary?	X
Public officials	
Does the offence only apply to bribing public officials?	✓
Acts performed outside Nigeria	
Can bribery performed outside Nigeria be caught?	✓
Does the act also need to be illegal in the foreign country of performance?	X
Who can be liable	
Nigerian national?	✓
Nigerian company?	X
Nigerian partnership (including limited liability partnership)?	X
Director of Nigerian company?	✓ ³
Nigerian company if the bribe is committed abroad by its foreign subsidiary?	X
Foreign subsidiary of a Nigerian company if the bribe is committed abroad?	X
Foreign national / company / partnership if bribe is committed in Nigeria?	X
Foreign national domiciled or "ordinarily resident" in Nigeria if bribe is committed outside Nigeria?	X
Foreign company / partnership if bribe is committed abroad?	X
Penalties	
Penalties include:	<ul style="list-style-type: none"> — Vacation of office or any elective or nominated office — Disqualification from holding any public office (whether elected or not) for a period not exceeding ten years — Seizure and forfeiture to the State of any property acquired by abuse or corruption of office <p>These punishments are without prejudice to the penalties that may be imposed by any law where the breach of conduct is also a criminal offence under the Criminal Code or any other enactment or law.</p> <p>The provisions of the Constitution of the Federal Republic of Nigeria 1999, relating to prerogative of mercy, shall not apply to any punishment imposed. ⁴</p>
Defences	
Are there any defences available?	✓ ⁵

Nigeria (continued 1)

Source of law	
Offence	Criminal Code Law of Lagos State
	A. Corruption and Abuse of Office (s63(1))
	(1) Any public official who:
	(a) asks for, receives or obtains any property or benefit of any kind for himself or any other person; or
	(b) agrees or attempts to receive or obtain any property or benefit of any kind for himself or any other person, on account of:
	(i) anything already done or omitted, or any favour or disfavour already shown to any person, by himself in the discharge of his official duties or in relation to any matter connected with the functions, affairs or business of a Government department, public body or other organisation or institution in which he is serving as a public official; or
	(ii) anything to be afterwards done or omitted, or any favour or disfavour to be afterwards shown to any person, by himself in the discharge of his official duties or in relation to any such matter, is guilty of a felony.
	B. Offering Gratification to a public official (s64(1))
	(1) (a) Any person who intentionally promises, offers, gives or attempts to offer or give to a public official directly or indirectly any property or benefit of any kind for the official himself or herself or another person or entity, in order that he acts or refrains from acting in the exercise of his or her official duties; or
	(b) Any public official who intentionally solicits, accepts, agrees, or attempts to receive or obtain directly or indirectly any property or benefit of any kind for himself or another person or entity, in order that he acts or refrains from acting in the exercise of his official duties, is guilty of a felony.
	C. Acceptance of Gifts by Agents (s65(1))
	Any person who -
	(a) being an agent accepts or obtains or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gift or consideration as an inducement or reward for doing or refraining from doing any act in relation to his principal's affairs or business, or for showing or failing to show favour to any person in relation to his principal's affairs or business; or
	(b) gives or agrees to give or offers any gift or consideration to any agent as an inducement or reward for doing or refraining from doing, or for having after the commencement of this Law done or refrain to do, any act in relation to his principal's affairs or business, or for showing or refraining from showing favour or disfavour to any person in relation to his principal's affairs or business; is guilty of a misdemeanour.
	D. Unlawful Enrichment (s82)
	Any public official who:
	(a) enriches himself so as to have a significant increase in his assets that he cannot reasonably explain the increase, in relation to his lawful income;
	(b) retires, resigns or is dismissed from service and cannot reasonably explain the increase in relation to his lawful income; or
	(c) after leaving office begins to derive economic benefits from favours he had conferred on third party or parties while in the office, is guilty of a felony.
	Bribery in the Private Sector (s83)
	Any person who:
	(a) promises, offers, or gives, directly or indirectly, any undue advantage to any person who directs or works, in any capacity, in the private sector, for the person himself or for another person, in order that he acts or refrains from acting; or
	(b) being in the private sector, solicits or accepts, directly or indirectly, any undue advantage from the person himself or for another person, in order that he acts or refrain from acting, is guilty of a felony.
The bribe	
Is there a presumption that any advantage was given/received corruptly?	✓
Would facilitation payments be caught?	✓
Would corporate hospitality be caught?	✓
Is there any <i>de minimis</i> ?	X
Does the bribe have to be monetary?	X
Public officials	
Does the offence only apply to bribing public officials?	X
Acts performed outside Nigeria	
Can bribery performed outside Nigeria be caught?	✓
Does the act also need to be illegal in the foreign country of performance?	X

Nigeria (continued 2)

Source of law		Criminal Code Law of Lagos State
Who can be liable		
Nigerian national?		✓
Nigerian company?		✓
Nigerian partnership (including limited liability partnership)?		✓
Director of Nigerian company?		✓
Nigerian company if the bribe is committed abroad by its foreign subsidiary?		✓
Foreign subsidiary of a Nigerian company if the bribe is committed abroad?		✓
Foreign national / company / partnership if bribe is committed in Nigeria?		✓
Foreign national domiciled or “ordinarily resident” in Nigeria if bribe is committed outside Nigeria?		✓
Foreign company / partnership if bribe is committed abroad?		✓
Penalties		
Penalties include:	<ul style="list-style-type: none">— Felonies are punishable by up to seven years imprisonment— Misdemeanours are punishable by up to two years imprisonment and/or a fine up to NGN 360,000	
Defences		
Are there any defences available?	✓(The defences available would be based on the nature of charges against him and relevant circumstances of the allegation)	

Source of law		<i>The Corrupt Practices and other Related Offences Act 2000</i>
Offence	<p>The principal offences include:</p> <p>A. Official Corruption (s8) Any person who corruptly asks for, receives, agrees to receive or obtains any property or benefit of any kind for himself, or for any other person, or agrees or attempts to receive or obtain any property or benefit of any kind for himself or for any other person, on account of: (i) anything done or omitted to be done or any favour or disfavour already shown afterwards or to be shown afterwards, to any person by himself, in discharge of his official duties or in relation to any matter connected with the functions, affairs, or business of a government department or corporate body or any other organisation or institution which he is serving as an official, or (ii) anything to be afterwards done or omitted to be done or favour or disfavour to be afterwards shown to any person, by himself in the discharge of his official duties or in relation to any such matter as aforesaid, is guilty of an offence.</p> <p>B. Corrupt Offers (s9(1) and 10) Any person who corruptly gives, promises to give, confers, procures or attempts to procure any property or benefit of any kind to, on or for a public officer or any other person, on account of any such act, omission, favour or disfavour to be shown by the public officer in the discharge of his official duties or in relation to any matter connected with the functions, affairs, or business of a government department or corporate body or any other organisation or institution in which the public official is serving as such is guilty of an offence.</p> <p>C. Gratification and Bribery of Public Officers (s18) Any person who offers to any public officer, or being a public officer solicits, counsels or accepts any gratification as an inducement or a reward for- (a) voting or abstaining from voting at any meeting of the public body in favour or against any measure, resolution or question submitted to the public body; (b) performing or abstaining from performing or aiding in procuring, expediting, delaying, hindering or preventing the performance of any official act; (c) aiding in procuring or preventing the passing of any vote or the granting of any contract, award, recognition or advantage in favour of any person; or (d) showing or forbearing to show any favour or disfavour in his capacity as such officer, shall, notwithstanding that the officer did not have the power, right or opportunity so to do, or that the inducement or reward was not in relation to the affairs of the public body, be guilty of an offence.⁶</p> <p>D. Bribery for giving assistance in regard to Contracts (s22) (1) Any person who without lawful authority or reasonable excuse, offers an advantage to a public servant as an inducement to or reward for or otherwise on account of such public servants giving assistance or using influence in, or having given assistance or used influence in: (a) the promotion, execution or procuring of: (i) any contract with a public body for the performance of any work, the providing of any service, the doing of anything or the supplying of any article, material or substance; or (ii) any sub-contract to perform any work, provide any article, materials or substance required to be performed, provided, done or supplied under any contract with a public body; or (b) the payment of price, consideration or other money stipulated or otherwise provided for in any subcontract or promotion, execution or procuring or in any such contract or subcontract, shall be guilty of an offence. (2) Any public servant, who without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement or reward for or otherwise on account of his giving assistance or using the influence in or having given assistance in or used influence in: (a) the promotion, execution or procuring; or (b) the payment of the price, consideration; or (c) other money stipulated or otherwise provided for, in any subcontract or contract as is referred to in subsection (1) is guilty of an offence.</p>	

Nigeria (continued 3)

The bribe	
Is there a presumption that any advantage was given/received corruptly?	✓ ⁷ (depends on the specific charge and whether it has been proved that any gratification had been accepted or agreed to be accepted, obtained, promised or offered by or to the accused)
Would facilitation payments be caught?	✓
Would corporate hospitality be caught?	✓
Is there any <i>de minimis</i> ?	X
Does the bribe have to be monetary?	X
Public officials	
Does the offence only apply to bribing public officials?	X
Acts performed outside Nigeria	
Can bribery performed outside Nigeria be caught?	✓ ⁸
Does the act also need to be illegal in the foreign country of performance?	X
Who can be liable	
Nigerian national?	✓
Nigerian company?	✓
Nigerian partnership (including limited liability partnership)?	✓
Director of Nigerian company?	✓
Nigerian company if the bribe is committed abroad by its foreign subsidiary?	X
Foreign subsidiary of a Nigerian company if the bribe is committed abroad?	✓
Foreign national / company / partnership if bribe is committed in Nigeria?	✓ (provided the foreign national is a permanent resident of Nigeria)
Foreign national domiciled or "ordinarily resident" in Nigeria if bribe is committed outside Nigeria?	✓ (provided the foreign national is a permanent resident of Nigeria)
Foreign company / partnership if bribe is committed abroad?	X
Penalties	
Penalties include:	Maximum penalties range from five to seven years imprisonment, depending on the offence.
Defences	
Are there any defences available?	✓

¹ Section 10(2) of the Act.

² Section 12 of the Act.

³ Directors of a Government-owned company.

⁴ Section 23 of the Act.

⁵ Section 18 of the Act. The President may by order exempt any cadre of public officers from the provisions of the Act if it appears to him that their position in the public service is below the rank which is considered appropriate for the application of the provisions of the Act.

⁶ Section 18 of the Corrupt Practices and other Related Offences Act.

⁷ Section 8(2) (c) of the Corrupt Practices and Other Related Offences Act.

⁸ Sections 24 and 66 of the Corrupt Practices and Other Related Offences Act.

⁹ Section 98(2) and 98A (2) of the Criminal Code Act

South Africa

Sources of law	
Offence	<p>Prevention and Combating of Corrupt Activities Act No 12 of 2004 (PCCA)</p> <p>There is a general offence of corruption, which is broadly defined (s3), as well as certain specified corrupt activities e.g. offences of corruption relating to foreign public officials, agents, members of the legislative authority, judicial officers, contracts, the procuring and withdrawal of tenders, as well as sporting events.</p> <p>Generally speaking, a person is guilty of an offence if he or she directly or indirectly accepts, agrees to accept or offers to accept a gratification (see footnote 2) from another person, or gives, agrees to give or offers to give a gratification to any other person to his or her benefit, or that of another. The giving or acceptance must be done in order to induce the other party to act in an improper manner, in the performance of that individual's duties.</p> <p>The underlying principle is that guilt will be determined by intention.</p>
The bribe	
Is there a presumption that any advantage was given/received corruptly?	✓ ¹
Would facilitation payments be caught?	✓
Would corporate hospitality be caught?	Depends on intent
Is there any <i>de minimis</i> ?	X
Does the bribe have to be monetary?	X ²
Public officials	
Does the offence only apply to bribing public officials?	X
Acts performed outside South Africa	
Can bribery performed outside South Africa be caught?	✓
Does the act also need to be illegal in the foreign country of performance?	X
Who can be liable	
South African national?	✓
South African company?	✓
South African partnership (including limited liability partnership)?	✓
Director of South African company?	✓ ³
South African company if the bribe is committed abroad by its foreign subsidiary?	X
Foreign subsidiary of a South African company if the bribe is committed abroad?	X
Foreign national / company / partnership if bribe is committed in South Africa?	✓
Foreign national domiciled or "ordinarily resident" in South Africa if bribe is committed outside South Africa?	✓
Foreign company / partnership if bribe is committed abroad?	X
Penalties	
Penalties include:	<p>Penalties for bribery and corruption are set out in s26 of PCCA and depend on the category of offence.</p> <p>The penalties in relation to the majority of the offences (including the offences of corruption) are the following, in the case of a sentence to be imposed by:</p> <ul style="list-style-type: none"> — a High Court, a fine or imprisonment of a period of up to life imprisonment; — a Regional Court, a fine or imprisonment for a period not exceeding 18 years; and — a Magistrates' Court, a fine or imprisonment for a period not exceeding 5 years. <p>In addition to any fine that a court may impose, the court may further impose a fine equal to five times the value of the gratification involved in the offence.</p> <p>S28 of PCCA also provides for the endorsement on the Register for Tender Defaulters, which is a register of entities and individuals convicted of acts of corruption relating to contracts and the procurement and withdrawal of tenders, with the consequence being that the National Treasury may terminate any agreement with such persons. Such persons will also be prevented from doing business with the State for a period of between 5 and 10 years.⁴</p> <p>It is a criminal offence for an individual or enterprise not to disclose their endorsement on this register in any subsequent agreement or tender process involving the State.</p>
Defences	
Are there any defences available?	X

¹ Presumption applies in certain instances (s24). Broadly, when a person is charged with an offence of corruption, if the State can show that despite having taken reasonable steps, it was not able with reasonable certainty to link the acceptance or giving of the gratification to any lawful authority or excuse on the part of the person charged, and in the absence of evidence to the contrary which raises reasonable doubt, proof that that person gave or accepted gratification to any other person holding a certain position (as set out in s24) is sufficient evidence that the person gave or accepted the gratification corruptly.

² The PCCA uses the term 'gratification' which is broadly defined and includes, amongst others, money, donation, gift, loan, fee, reward, property, or valuable security as well as any valuable consideration or benefit of any kind, including any discount, commission, rebate, bonus, deduction or percentage.

³ There is no specific provision in the PCCA which deals with personal liability for company management/directors or employees in connection with a corporate bribery issue. However, section 332 of South Africa's Criminal Procedure Act No 51 of 1977 deals with the prosecution of corporate bodies. In terms of this section, a corporate body can be held liable for the acts of its directors or other servants. If the State alleges that a particular office bearer was responsible for the offence in question, that particular office bearer (be it a director, manager or other employee) may be charged separately or as a second defendant in the case and the State will have to prove that such office bearer was in fact responsible for the offence in question.

⁴ This register can be found on the National Treasury's website: www.treasury.gov.za.

Australia

Source of law			
<i>The Criminal Code Act 1995 (Cth) as expected to be amended by the Crimes Legislation Amendment (Combatting Corporate Crime) Bill 2019 (Cth) (the Bill)</i> ¹			
Offence	When the Bill is passed, s70.2 is replaced with the following “Bribery of a Foreign Public Official” Offence A person commits an offence if they provide or offer to provide a benefit to another person with the intention of improperly influencing ² a foreign public official in order to obtain or retain business or an advantage.	When the Bill is passed s70.5A: Failure to prevent bribery of foreign Public Officials A person commits an offence if they are a foreign body corporate or a trading or financial corporation incorporated in Australia and if an associate of the body corporate commits an offence against s70.2, for the profit or gain of the body corporate.	s141.1(1)-(2): Bribery of a Commonwealth Public Official A person commits an offence if they provide or offer to provide a benefit to another person with the intention of influencing a Commonwealth public official in the exercise of the official’s duties. See also offence prohibiting giving “corrupting benefits” at s142.1(1)-(2)
The bribe			
Is there a presumption that any advantage was given/received corruptly?	X	✓ ³	✓ (There is no requirement that the benefit be corrupt)
Would facilitation payments be caught?	X (See s70.4)	X (See s70.4)	✓
Would corporate hospitality be caught?	✓ (Depending on circumstance)	✓ (Depending on circumstance)	✓ (Depending on circumstance)
Is there any <i>de minimis</i> ?	✓ ⁴	✓ ³	✓
Does the bribe have to be monetary?	X	X	X
Public officials			
Does the offence only apply to bribing public officials?	✓ (Only applies to foreign public officials: see s70.1 for definition)	✓ (Only applies to foreign public officials: see s70.1 for definition)	✓ (Only applies to Commonwealth public officials: see Dictionary in the Criminal Code Act for definition)
Acts performed outside Australia			
Can bribery performed outside Australia be caught?	✓ (If the alleged offender is an Australian citizen, resident or body corporate: see s70.5(1)(b)) ⁵	✓ (If the alleged offender is an Australian trading or financial corporation)	✓
Does the act also need to be illegal in the foreign country of performance?	X ⁶	X ⁵	X
Who can be liable			
Australian national?	✓	X (s70.5A is a corporate offence)	✓
Australian company?	✓	✓ (If it is incorporated in the Territories or is a trading or financial corporation under the Constitution)	✓
Australian partnership (including limited liability partnership)?	X (Partnerships are not subject to criminal liability, but individual partners could be prosecuted)	X (Partnerships are not subject to criminal liability, but individual partners could be prosecuted)	X (Partnerships are not subject to criminal liability, but individual partners could be prosecuted)
Director of Australian company?	X ⁷	X (s70.5A is a corporate offence)	✓
Australian company if the bribe is committed abroad by its foreign subsidiary?	X ⁸	✓ (if it is incorporated in the Territories or is a trading or financial corporation)	✓
Foreign subsidiary of an Australian company if the bribe is committed abroad?	X	X	✓
Foreign national / company / partnership if bribe is committed in Australia?	✓	✓	✓
Foreign national domiciled or “ordinarily resident” in Australia if bribe is committed outside Australia?	✓	X (s70.5A is a corporate offence)	✓
Foreign company / partnership if bribe is committed abroad?	✓	X	✓
Penalties			
Penalties include:	Individuals — Imprisoned for up to ten years, and/or fined up to AUD 2.2m. ⁹ Corporations — Fine not more than the greatest of AUD 22m ¹⁰ or three times the value of benefits obtained (or 10% of annual turnover).	Corporations — Fine not more than the greatest of AUD 22m ¹¹ or three times the value of benefits obtained. Where the benefits are unascertainable 10% of annual turnover for the previous 12 months.	Individuals — Imprisoned for up to ten years, and/or fined up to AUD 2.2m. ¹² Corporations — Fine not more than the greatest of AUD 22m ¹³ or three times the value of benefits obtained (or 10% of annual turnover).
Defences			
Are there any defences available?	✓ (See the facilitation payment defence and written law defences above; there is a general defence for conduct carried out under duress: see s10.2)	✓ (If the body corporate proves that they had in place adequate procedures designed to prevent the commission of an offence against s70.2. Defences for the underlying s70.2 offence also apply)	✓ (There is a general defence for conduct carried out under duress: see s10.2)



¹ Introduced into the Australian Senate by the Government on 2 December 2019.

² s70.2A prescribes matters which must be disregarded and matters which may be regarded, in determining if influence is improper.

³ If the underlying s70.2 offence is made out, liability is absolute and automatic.

⁴ However, the nature and value of the benefit are relevant for determining whether the influence is improper: s70.2A(3)(b), (d)).

⁵ If the alleged offender is an Australian citizen, resident or body corporate incorporated by or under an Australian law: see s70.5(1)(b). However, if the alleged offender is not an Australian citizen, proceedings for an offence require the Attorney-General's written consent: see s70.5(2).

⁶ However, it is a defence if there is a "written law in force in the foreign country" that permits or requires the provision of the benefit.

⁷ Will not be primarily liable, unless offence is committed in Australia. If a director aids, abets, counsels or procures the commission of the offence by the company, they are taken to have committed that offence themselves.

⁸ Unless they caused the benefit or an offer of a benefit to be provided by the subsidiary, or if there is ancillary criminal liability by complicity, incitement or conspiracy.

⁹ The equivalent of 10,000 penalty units, see s70.2(3).

¹⁰ The equivalent of 100,000 penalty units, see s70.2(4).

¹¹ The equivalent of 100,000 penalty units, see s70.5A(6)(a).

¹² The equivalent of 10,000 penalty units, see s141.1(5).

¹³ The equivalent of 100,000 penalty units, see s141.1(6)(a).

China

Sources of law		
<i>The PRC Criminal Law (revised in 2020), the PRC Anti Unfair Competition Law (revised in 2019) and the Interim Rules of the State Administration for Industry and Commerce on Prohibition of Commercial Bribery.</i>		
Offence	<p>Active Bribery</p> <p>Criminal Offence An individual or entity gives money or property to state working personnel¹, non-state working personnel, state organs, state-owned enterprises, public institutions or organisations for the purpose of obtaining improper benefits.</p> <p>Administrative Offence A business operator offers money or property to the following entities or individuals in order to seek a transaction opportunity or competitive advantage:</p> <ul style="list-style-type: none"> — working personnel of the business counterparty in a transaction; — units or individuals entrusted by the business counterparty to handle relevant matters; and — units or individuals that can affect the transaction by taking advantage of their powers and influence. 	<p>Passive Bribery</p> <p>Criminal Offence An entity or an individual working for the entity demands or receives illegal money or property by taking advantage of his/her position for the purpose of obtaining benefits for other entities or individuals</p> <p>Administrative Offence An entity or an individual working for the entity demands or receives illegal money or property in the course of purchasing and selling products.</p>
The bribe		
Is there a presumption that any advantage was given/received corruptly?	✓	✓
Would facilitation payments be caught?	✓	✓
Would corporate hospitality be caught?	✓ ²	✓ ²
Is there any <i>de minimis</i> ?	X ³	X ³
Does the bribe have to be monetary?	X ⁴	X ⁴
Public officials		
Does the offence only apply to bribing public officials?	X	X ⁵
Acts performed outside China		
Can bribery performed outside China be caught?	✓ (for Chinese citizens if the act constitutes a criminal offence)	✓ (for Chinese citizens if the act constitutes a criminal offence)
Does the act also need to be illegal in the foreign country of performance?	X	X
Who can be liable		
Chinese national?	✓	✓
Chinese company?	✓	✓
Chinese partnership (including limited liability partnership)?	✓	✓
Director of Chinese company?	✓ (only the person in charge or directly responsible for the act)	✓ (only the person in charge or directly responsible for the act)
Chinese company if the bribe is committed abroad by its foreign subsidiary?	X	X
Foreign subsidiary of a Chinese company if the bribe is committed abroad?	X	X
Foreign national / company / partnership if bribe is committed in China?	✓	✓
Foreign national domiciled or "ordinarily resident" in China if bribe is committed outside China?	X	X
Foreign company / partnership if bribe is committed abroad?	X	X
Penalties		
Penalties include:	<p>Individuals</p> <ul style="list-style-type: none"> — Fine — Confiscation of property — Fixed-term/ life imprisonment <p>Companies</p> <ul style="list-style-type: none"> — Fine — Confiscation of illegal income — Revocation of business licence — Fixed term imprisonment for up to five years (the person in charge or directly responsible) 	<p>Individuals</p> <ul style="list-style-type: none"> — Fine — Criminal detention — Fixed-term/ life imprisonment — Confiscation of property — In extreme cases: death penalty <p>Companies</p> <ul style="list-style-type: none"> — Fine — Confiscation of illegal income — Revocation of business licence — Fixed term imprisonment for up to five years (the person in charge or directly responsible)

China (continued)

Sources of law	<i>The PRC Criminal Law (revised in 2020), the PRC Anti Unfair Competition Law (revised in 2019) and the Interim Rules of the State Administration for Industry and Commerce on Prohibition of Commercial Bribery.</i>	
Offence	<i>Active Bribery</i>	<i>Passive Bribery</i>
Defences		
Are there any defences available?	<p>Defences for Criminal Offence</p> <p>The offence shall not be prosecuted if the following periods have elapsed:</p> <ul style="list-style-type: none"> — Five years, when the maximum prescribed punishment is fixed-term imprisonment of less than five years — Ten years, when the maximum prescribed punishment is fixed-term imprisonment of not less than five years but less than ten years — Fifteen years, when the maximum prescribed punishment is fixed-term imprisonment of not less than ten years — Twenty years, when the maximum prescribed punishment is life imprisonment or death <p>Defences for Administrative Offence</p> <ul style="list-style-type: none"> — The act of an employee of a business operator bribing any other individual shall be deemed as an act of the business operator itself, unless otherwise proven by the business operator with evidence that such act is not related to efforts in seeking a transaction opportunity or competitive advantage 	

¹ “State working personnel” refers to government officials, persons who perform the management functions in state-owned enterprises (SOEs) and persons who are assigned by SOEs to non-SOEs to perform management functions, such as Directors, Supervisors, General Managers, department managers, accountants, etc.

² If expenses are unreasonable and intended for the purpose of obtaining improper benefits.

³ Offering or receiving gifts with significantly low value (in practice less than RMB 300) does not constitute an offence.

⁴ The bribe can be either money or material gifts as well as benefits with monetary value including building decorations, membership cards, travelling expenses, etc.

⁵ In the public sector, the recipients of the bribery are so-called “state working personnel”, which include not only public officials but also persons performing management functions in SOEs (see definition in footnote 1). They are subject to more severe criminal liabilities than non-state working personnel should they commit crimes.

India

Sources of law	The Prevention of Corruption Act 1988 (PCA), The Foreign Contribution (Regulation) Act 2010 (FCRA) The Indian Penal Code 1860 (IPC), which also contains certain provisions relating to breach of trust, cheating and attempt to commit a criminal offence	
Offence	<p>Offences under the PCA</p> <p>By commercial organisations If any person associated with a commercial organisation gives or promises to give any “undue advantage” to a public servant to improperly or dishonestly perform a public duty, or refraining from performing a public duty, with the intention to obtain or retain business or an advantage in the conduct of business for the commercial organisation.</p> <p>By public servants Accepting, obtaining, attempting to obtain, or agreeing to accept (personally or inducing another public servant) an “undue advantage” with the intention to perform a public duty improperly or dishonestly, or refrain from performing a public duty.</p> <p>By others</p> <ol style="list-style-type: none"> Whoever accepts, obtains, or attempts to obtain from another person for themselves or for any other person any “undue advantage” as a motive or reward to induce a public servant to improperly or dishonestly perform a public duty, or refrain from performing a public duty through corrupt or illegal means. Giving or promising to give an undue advantage: to another person or persons with the intention to induce or reward a public servant for improper performance of a public duty. 	<p>Offences under the FCRA</p> <ul style="list-style-type: none"> “Foreign contribution” means, inter alia, any donation, delivery, or transfer made by any “foreign source” of any article (if not a gift), any currency or any security. “Foreign source” includes a foreign Government, foreign company (excluding the subsidiary of a foreign company) or trust, as well as a citizen of a foreign country. “Foreign hospitality” means any offer, not being a purely casual one, made in cash or kind by a foreign source for providing a person with the costs of travel to any foreign country or territory or with free boarding, lodging, transport or medical treatment. <p>It is an offence:</p> <ul style="list-style-type: none"> For a candidate for election, a newspaper columnist, government servant, public servant, Member of the Legislature, political party or its office bearer, or a company engaged in production or broadcast of audio news (“Relevant Persons”), to accept a “foreign contribution” For an Indian resident, or a citizen of India who is resident outside of India, on behalf of a political party or a Relevant Person, to accept a foreign contribution. For any Indian resident (or Indian citizen outside India) to deliver to any person any currency, which has been accepted by a “foreign source”, if the resident (or overseas citizen) has reasonable cause to believe / knows that such other person intends to deliver the currency to a political party or Relevant Person. To deliver any currency, which has been accepted by a foreign source, on behalf of any person or class of persons if so specified by the Central Government. For any Legislative member, office-bearer of a political party, judge or government servant (among others) to accept foreign hospitality, when visiting a foreign country, without the prior permission of the Central Government, except in cases of emergency medical aid. Not to comply with a prohibitory order made by Central Government, prohibiting any person, who has in his custody or control any article, currency or security, in contravention of any provisions of FCRA, from paying, delivering, transferring or otherwise dealing in any manner whatsoever, any such article or currency or security.
The bribe		
Is there a presumption that any benefit was given / received corruptly?	✓ ¹	X
Would facilitation payments be caught?	✓	✓
Would corporate hospitality be caught?	✓	✓
Is there any <i>de minimis</i> ?	X	X
Does the bribe have to be monetary?	X	X
Public officials		
Does the offence only apply to bribing public officials?	✓	X
Acts performed outside India		
Can bribery performed outside India be caught?	✓	✓
Does the act also need to be illegal in the foreign country of performance?	X	X
Who can be liable		
Indian national?	✓	✓
Indian company?	✓ ²	✓
Indian Partnership (including limited liability partnership)?	✓ ³	✓
Director of Indian company?	✓ ⁴	✓ ⁷
Indian company if the bribe is committed abroad by its foreign subsidiary?	X	✓ ⁸
Foreign subsidiary of an Indian company if the bribe is committed abroad?	X	✓ ⁹
Foreign national / company / partnership if bribe is committed in India?	✓ ⁵	✓ ¹⁰
Foreign national domiciled or “ordinarily resident” in India if bribe is committed outside India?	X	✓
Foreign company / partnership if bribe is committed abroad?	X	X

India (continued)

Sources of law	<i>The Prevention of Corruption Act 1988 (PCA), The Foreign Contribution (Regulation) Act 2010 (FCRA) The Indian Penal Code 1860 (IPC), which also contains certain provisions relating to breach of trust, cheating and attempt to commit a criminal offence</i>	
Offence	<i>Offences under the PCA</i>	<i>Offences under the FCRA</i>
Penalties		
Penalties include:	<ul style="list-style-type: none"> — Imprisonment between three and seven years — Unlimited fine 	<ul style="list-style-type: none"> — Varying prison sentence for offences; accepting or assisting in acceptance of foreign contribution or currency / security from a foreign source can lead to imposition of a prison sentence of up to five years, or a fine, or both — Any article / currency / security received in contravention of the FCRA may be seized and subsequently disposed of, by the Central Government
Defences		
Are there any defences available?	✓ ⁶	X

- ¹ This presumption is applicable to public servants for offences relating to acceptance or attempting to obtain for himself, or for any other person, any undue advantage from any person; and to those private parties who abet the said offences. This presumption is additionally applicable to all parties for habitual commission of offences punishable under the PCA.
- ² Where an offence is committed by a commercial organisation with the consent or connivance of any director, manager, secretary or other officer, such individuals will be held liable. Where the offence is committed by a partnership firm, the partners with whose consent or connivance such offence occurred will be held liable.
- ³ A partnership has no separate legal personality. The partners are jointly and severally liable for all acts of the firm done while the said persons were partners, provided that the wrongful act was committed by one partner in the ordinary course of business of the firm or with the authority of his partners. A "Limited Liability Partnership" (LLP) has a separate legal personality from that of its partners. The LLP, along with the partner, will be liable for any wrongful act / omission of a partner, done in the course of business of the LLP or with the authority of the LLP. However the other partners will not be liable for such wrongful act / omission.
- ⁴ The PCA does not specifically provide for directors to be held liable for the acts of the Company. In the situation where the Company has committed an offence, directors of a Company will be liable provided they commit an act which was not authorised by the Company, and that act constitutes an offence under the PCA.
- ⁵ The term 'Commercial Organisation' covers within its ambit (i) a body which is incorporated in India and which carries on a business, whether in India or outside India; (ii) any other body which is incorporated outside India and which carries on a business, or part of a business, in any part of India; (iii) a partnership firm or any association of persons formed in India and which carries on a business whether in India or outside India; or (iv) any other partnership or association of persons which is formed outside India and which carries on a business, or part of a business, in any part of India.
- ⁶ Commercial Organisations can raise a defence that they had in place adequate procedures in compliance with the prescribed guidelines to prevent persons associated with it from undertaking such conduct.
- ⁷ See footnote 4.
- ⁸ Provided it can be proved that the Indian company assisted in the wrongdoing.
- ⁹ Provided it can be proved that the foreign company assisted in the wrongdoing, through an Indian resident or through an Indian citizen resident outside India.
- ¹⁰ Provided that the entity will qualify as a person resident in India. Alternatively, it must be proved that the entity assisted an Indian resident or a citizen of India resident outside of India, in commission of such offence.

Indonesia

Source of law		Law No. 31/1999 on Corruption Eradication as amended by Law No. 20/2001 Law No. 28/1999 on Good Governance, Anti-Corruption, Collusion and Nepotism Supreme Court Regulation No. 13 of 2016 on Procedures for Handling Corporate Crimes Corruption Eradication Commission (KPK) Regulation No. 2/2019 on Gratification Reporting
Offence		<ul style="list-style-type: none"> — Loss to state finances or the state economy; — Bribery/gratification; — Act of cheating; — Extortion; — Embezzlement; — Conflict of interest in procurement.
The bribe		
Is there a presumption that any advantage was given/received corruptly?		✓ (with exceptions) Exceptions include gifts that have a sale value not exceeding IDR 1m and are given in relation to certain traditional/religious ceremonies, and advantages given due to the occurrence of a natural disaster.
Would facilitation payments be caught?		✓
Would corporate hospitality be caught?		✓ (with exceptions) Exceptions include corporate hospitality that was lawfully obtained during the performance of official work, with proper documentation, and with an amount that is reasonable pursuant to the annual Foreign Minister Regulation on the Standard for General Cost.
Is there any <i>de minimis</i> ?		✓ IDR 0.5m for judges, and IDR 1m for other public officials, so long as it was given in relation to certain traditional/religious ceremonies, or due to the occurrence of a natural disaster.
Does the bribe have to be monetary?		✗ The bribe can be anything that has value, including but not limited to money, goods, discount, commission, loans without interest, travel tickets, accommodation, holidays and free medication, among others.
Public officials		
Does the offence only apply to bribing public officials?		✓
Acts performed outside Indonesia		
Can bribery performed outside the jurisdiction be caught?		✓
Does the act also need to be illegal in the foreign country of performance?		✗
Who can be liable		
Indonesian national?		✓
Indonesian company?		✓
Indonesian partnership (including limited liability partnership)?		✓
Director of Indonesian company?		✓
Indonesian company if the bribe is committed abroad by its foreign subsidiary?		✗ Unless the company is actively involved in the commission of the bribe, i.e.: 1. The one who causes the subsidiary to perpetrate, or who takes a direct part in the execution of the bribe; 2. The one who deliberately aids the subsidiary in the commission of the bribe; and/or 3. The one who deliberately provides the opportunity, means, or information for commissioning the bribe.
Foreign subsidiary of an Indonesian company if the bribe is committed abroad?		✓
Foreign national / company / partnership if bribe is committed in Indonesia?		✓
Foreign national domiciled or "ordinarily resident" in Indonesia if bribe is committed outside Indonesia?		✓
Foreign company / partnership if bribe is committed abroad?		✓
Penalties		
Penalties include:		<ul style="list-style-type: none"> — For the bribe-giver: up to 15 years imprisonment and fines up to IDR 750m for individuals or IDR 1bn for companies — For the bribe-giver (company): temporary closing of the company for a maximum period of one year — For public officials who receive the bribe: up to life imprisonment and fines up to IDR 1bn
Defences		
Are there any defences available?		Based on Article 4 paragraph (2) letter c of the Supreme Court Regulation No. 13 of 2016 on Procedures for Handling Corporate Crimes, when imposing criminal sanctions on a corporation, the Judge can assess the fault of a corporation by reference to (amongst other things): <ul style="list-style-type: none"> — Whether or not the corporation gained benefit from the crime or whether or not the crime was committed in the interests of the company; — Whether or not the corporation allowed the crime to occur; — Whether or not the corporation failed to take necessary action to prevent the occurrence of the offence, failed to take mitigating measures and/or failed to comply with the prevailing laws in order to prevent the occurrence of the offence. These factors may be used in the corporation's defence against corruption claims.

Malaysia

Source of law	Malaysian Anti-Corruption Commission Act 2009 (MACC Act)	Penal Code
Offence	<p>The principal offences are:</p> <ul style="list-style-type: none"> a) corruptly soliciting or receiving or agreeing to receive; or b) corruptly giving, promising or offering gratification as an inducement to or a reward for, or otherwise on account of any person or officer of a public body to do anything in respect of any matter or transaction, actual or proposed or likely to take place. <p>The MACC Act also provides for the offences of:</p> <ul style="list-style-type: none"> a) giving or accepting gratification by an agent; b) corruptly procuring withdrawal of an agenda; c) offering an officer of any public body any gratification as an inducement or a reward for performing or abstaining from performing certain actions; d) offering any gratification to or accepting any gratification by a foreign public official; or e) using public office or position for gratification. <p>Corporate offence:</p> <p>In addition to the above, there is a corporate liability offence where a person associated with a commercial organisation corruptly gives, agrees to give, promises or offers to any person any gratification with intent to obtain or retain business for the commercial organisation, or to obtain or retain an advantage in the conduct of business of the commercial organisation.</p> <p>Failure to report offence:</p> <p>The MACC Act imposes a reporting obligation on any person to whom any gratification is given, promised, or offered and on any person from whom any gratification has been solicited or obtained.</p>	<p>The Penal Code provides for offences:</p> <ul style="list-style-type: none"> a) against a public servant for taking gratification other than legal remuneration, in respect of any official act; b) against a person taking gratification in order to influence a public servant, by corrupt or illegal means; c) against a person taking gratification for the exercise of personal influence with a public servant; or d) against a public servant obtaining any valuable thing, without consideration, from a person concerned in any proceeding or business transacted by such public servant. <p>Failure to report offence:</p> <p>Section 13(1) of the Malaysian Criminal Procedure Code imposes a reporting obligation on any person who is aware of the commission of any offence punishable under the Penal Code or any other written law.</p>
The bribe		
Is there a presumption that any advantage was given/received corruptly?	✓ ¹	✓ ²
Would facilitation payments be caught?	✓	✓
Would corporate hospitality be caught?	✓	✓
Is there any <i>de minimis</i> ?	X	X
Does the bribe have to be monetary?	X	X
Public officials		
Does the offence only apply to bribing public officials?	X	X
Acts performed outside Malaysia		
Can bribery performed outside Malaysia be caught?	✓ (if committed by a citizen or permanent resident of Malaysia)	✓ (if committed by a citizen or permanent resident of Malaysia)
Does the act also need to be illegal in the foreign country of performance?	X	X
Who can be liable		
Malaysian national?	✓	✓
Malaysian company?	✓	✓
Malaysian partnership (including limited liability partnership)?	✓	✓
Director of Malaysian company?	✓ ³	✓
Malaysian company if the bribe is committed abroad by its foreign subsidiary?	X	X
Foreign subsidiary of a Malaysian company if the bribe is committed abroad?	X	X
Foreign national / company / partnership if bribe is committed in Malaysia?	✓	✓
Foreign national domiciled or "ordinarily resident" in Malaysia if bribe is committed outside Malaysia?	✓ (provided the foreign national is a permanent resident of Malaysia)	X
Foreign company / partnership if bribe is committed abroad?	X	X

Malaysia (continued)

Penalties	MACC Act	Penal Code
Penalties include:	<p>A person who commits an offence under the MACC Act is liable to: -</p> <ul style="list-style-type: none"> a. imprisonment for a term not exceeding 20 years; and/or b. a fine of not less than five times the sum / value of the gratification where it is capable of being valued or is of a pecuniary nature, or MYR10,000 (whichever is higher) <p>Where a commercial organisation commits an offence under section 17A of the MACC Act, culpable Top Management and partners are liable to:</p> <ul style="list-style-type: none"> a. imprisonment for a term not exceeding 20 years; and/or b. a fine of not less than ten times the sum / value of the gratification where it is capable of being valued or is of a pecuniary nature, or MYR1,000,000 (whichever is higher) <p>The commercial organisation will be liable to a fine calculated on the same basis</p>	<ul style="list-style-type: none"> — Imprisonment up to three years — Unlimited fine
Defences		
Are there any defences available?	✓ ⁴	X

¹ Where it is proved that gratification has been received, accepted etc., it is presumed to have been done so corruptly, unless the contrary is proved.

² The presumption under the MACC Act has been extended to offences in the Penal Code.

³ Where an offence is committed by a commercial organisation, a person who is its director, controller, officer or partner, or who is concerned in the management of its affairs at the time of the commission of the offence (Top Management), is also deemed to have committed that offence.

⁴ Commercial organisations charged for the corporate offence under s17A of the MACC Act will have a defence if it can prove it had in place adequate procedures to prevent persons associated with it from undertaking any corrupt practices. Where an offence is deemed to have been committed by a member of Top Management pursuant to s17A of the MACC Act, he/she will have a defence if he/she can prove that the offence was committed without his/her consent or connivance and that he/she exercised due diligence to prevent the commission of the offence as he/she ought to have exercised, having regard to the nature of his/her function in that capacity and to the circumstances.

Singapore

Source of law	Prevention of Corruption Act	Penal Code
Offence	<p>The Prevention of Corruption Act (PCA) provides for offences against any person who by himself or in conjunction with any other person:</p> <p>a) corruptly solicits or receives, or agrees to receive for himself, or for any other person; or</p> <p>b) corruptly gives, promises or offers to any person, whether for the benefit of that person or of another person, any gratification as an inducement to or reward for, or otherwise on account of:</p> <p>a) any person doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed; or</p> <p>b) any member, officer or servant of a public body doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed, in which such public body is concerned.</p> <p>Abetment of any offence under the PCA is punishable, upon conviction, with the same punishment provided for that offence.</p>	<p>The Penal Code provides for offences:</p> <p>a) against a public servant¹ for taking gratification other than legal remuneration, in respect of any official act;</p> <p>b) against a person taking gratification in order, by corrupt or illegal means, to influence a public servant;</p> <p>c) against a person taking gratification, for the exercise of personal influence with a public servant;</p> <p>d) against a public servant obtaining any valuable thing, without consideration, from a person concerned in any proceeding or business transacted by such public servant;</p> <p>e) against a person involved in the bribery of witnesses;</p> <p>f) against a person taking gifts, etc., to screen an offender from punishment²;</p> <p>g) against a person offering gifts or restoration of property in consideration for screening an offender³;</p> <p>h) against a person accepting gifts to help to recover stolen property, etc⁴; and</p> <p>i) abetment for any of the above.</p>
The bribe		
Is there a presumption that any advantage was given/received corruptly?	✓ (only for gratification given to a (a) person in the employment of; or a (b) person/agent who has/ seeks to have any dealing with, the government or a public body)	X
Would facilitation payments be caught?	✓	✓
Would corporate hospitality be caught?	✓	✓
Is there any <i>de minimis</i> ?	X	✓ ⁵
Does the bribe have to be monetary?	X	X
Public officials		
Does the offence only apply to bribing public officials?	X	X (includes bribery of witnesses, screening an offender from punishment and accepting gifts to recover stolen property etc)
Acts performed outside Singapore		
Can bribery performed outside Singapore be caught?	✓ (if committed by a Singapore citizen)	✓
Does the act also need to be illegal in the foreign country of performance?	X	X
Who can be liable		
Singaporean national?	✓	✓
Singaporean company?	✓	✓
Singaporean partnership (including limited liability partnership)?	✓	✓
Director of Singapore company?	✓	✓
Singaporean company if the bribe is committed abroad by its foreign subsidiary?	✓ ⁶	X ⁷
Foreign subsidiary of a Singapore company if the bribe is committed abroad?	✓ ⁶	X
Foreign national/company/partnership if the bribe is committed in Singapore?	✓	X
Foreign national domiciled or "ordinarily resident" in Singapore if the bribe is committed outside Singapore?	✓ ⁶	X
Foreign company/partnership if the bribe is committed abroad?	X	X
Penalties		
Penalties include:	<ul style="list-style-type: none"> — Imprisonment up to seven years if it involves the Government or any public body; otherwise up to five years — Fine up to SGD 100,000 — Confiscation of benefits from under Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act 	<ul style="list-style-type: none"> — Imprisonment up to three years and/or fine in relation to corruption of public servants — Imprisonment of up to seven years and/or fine for bribery of witnesses — Imprisonment of up to ten years and fine for taking or offering gifts, etc. to screen an offender from punishment, unless the offence may lawfully be compounded. — Imprisonment of up to two years, and/or a fine for accepting gifts to help recover stolen property, etc. — Confiscation of benefits under Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act
Defences		
Are there any defences available?	X	X ⁸

¹ Including any person expecting to become a public servant.

² An offence under this s213 of the Penal Code will not be applicable to offences which may lawfully be compounded.

³ An offence under this s214 of the Penal Code will not be applicable to offences which may lawfully be compounded.

⁴ Under s215 of the Penal Code, punishment for this offence may be avoided if the accused uses all means in his power to cause the offender to be apprehended and convicted of the offence.

⁵ Section 95 of the Penal Code provides for a general *de minimis* exception but it is unlikely that this general defence will have any practical applicability to corruption offences given Singapore's strict anti-corruption policy.

⁶ If in relation to affairs or business in Singapore.

⁷ Unless it was abetment from outside Singapore for an act in Singapore.

⁸ Under s215 of the Penal Code, punishment for the offence of taking gift to help to recover stolen property, etc. may be avoided if the accused uses all means in his power to cause the offender to be apprehended and convicted of the offence.

Thailand

Sources of law	<i>The Thai Criminal Code</i>	<i>The Organic Act on Counter-Corruption Act B.E. 2561 (2018) (Counter-Corruption Act) as amended and the Notification of the National Anti-Corruption Commission regarding Rules of the Acceptance of Property or Other Benefits of State Officials B.E. 2563 (2020)</i>
Offence	The Criminal Code criminalises the offering and giving of bribes to, as well as the acceptance and solicitation of bribes by, government officials. The offence requires intent “to induce an official to do or not to do any act, or to delay the doing of any act contrary to one’s own duty”.	The Counter-Corruption Act criminalises the giving and taking of bribes by state officials, which include Thai officials as well as foreign state officials, and officials from international organisations. The offence requires intent “to induce such person to do or not to do any act, or to delay the doing of any act contrary to his own duty”.
The bribe		
Is there a presumption that any advantage was given/received corruptly?	X	X
Would facilitation payments be caught?	✓ ¹	✓ ¹
Would corporate hospitality be caught?	✓ ¹	✓ ¹
Is there any <i>de minimis</i> ?	X	✓ (property or any other benefit exceeding THB 3,000 must be disclosed to an official’s superior and may be required to be handed over to the State)
Does the bribe have to be monetary?	X	X
Public officials		
Does the offence only apply to bribing public officials?	✓	✓ ²
Acts performed outside Thailand		
Can bribery performed outside Thailand be caught?	✓	✓
Does the act also need to be illegal in the foreign country of performance?	X	X
Who can be liable		
Thai national?	✓	✓
Thai company?	✓ ³	✓ ⁶
Thai partnership (including limited liability partnership)?	✓ ⁴	✓ ⁶
Director of Thai company?	✓ ⁵	✓ ⁵
Thai company if the bribe is committed abroad by its foreign subsidiary?	X	✓ ⁶ (in limited circumstances)
Foreign subsidiary of a Thai company if the bribe is committed abroad?	X	✓ ⁷ (in limited circumstances)
Foreign national/company/partnership if the bribe is committed in Thailand?	✓	✓
Foreign national domiciled or “ordinarily resident” in Thailand if the bribe is committed outside Thailand?	✓ (in limited circumstances)	✓ ⁷ (in limited circumstances)
Foreign company/partnership if the bribe is committed abroad?	✓ (in limited circumstances)	✓ ⁷ (in limited circumstances)
Penalties		
Penalties include:	Bribing an official: <ul style="list-style-type: none"> — Imprisonment up to five years — A fine not exceeding THB 100,000 For the official being bribed: <ul style="list-style-type: none"> — Up to life imprisonment — The death penalty — A fine of up to THB 400,000 	Bribing an official: <p>(i) Individual</p> <ul style="list-style-type: none"> — Imprisonment up to five years — A fine not exceeding THB 100,000 <p>(ii) Juristic Person</p> <ul style="list-style-type: none"> — A fine starting at the amount (and not exceeding double the amount) of the incurred damages or the gained benefits For the official being bribed: <ul style="list-style-type: none"> — Up to life imprisonment — A fine of up to THB 400,000
Defences		
Are there any defences available?	✓ (lack of intent)	✓ (for juristic persons, where the offender has committed an offence in the interests of such legal person, it is a defence to have “appropriate internal control measures to prevent the commission of the offence”)

Thailand (continued)

Sources of law	<i>The Act on Offences Relating to the Submission of Bids to State Agencies B.E. 2542 (1999) (Submission of Bids to State Agencies Act)</i>	<i>Act on Offences Committed by Officials of State Organisations or Agencies B.E. 2502 (1959) (Act on Offences Committed by Officials of State Organisations)</i>
Offence	The Submission of Bids to State Agencies Act criminalises the giving and taking of bribes in order to obtain a government contract or to distort prices in the bidding for government contracts.	Act on Offences Committed by Officials of State Organisations criminalises the taking of bribes by officials of state organisations or agencies (e.g. personnel of a state enterprise).
The bribe		
Is there a presumption that any advantage was given/received corruptly?	X	X
Would facilitation payments be caught?	✓ ⁸	✓ ¹
Would corporate hospitality be caught?	✓ ⁸	✓ ¹
Is there any <i>de minimis</i> ?	X	X
Does the bribe have to be monetary?	X	X
Public officials		
Does the offence only apply to bribing public officials?	✓	✓ ⁹
Acts performed outside Thailand		
Can bribery performed outside Thailand be caught?	✓	✓
Does the act also need to be illegal in the foreign country of performance?	X	X
Who can be liable		
Thai national?	✓	✓ ¹⁰
Thai company?	✓	✓ ¹⁰
Thai partnership (including limited liability partnership)?	✓	✓ ¹⁰
Director of Thai company?	✓ ⁵	✓ ⁵
Thai company if the bribe is committed abroad by its foreign subsidiary?	X	X
Foreign subsidiary of a Thai company if the bribe is committed abroad?	X	X
Foreign national/company/partnership if the bribe is committed in Thailand?	✓	
Foreign national domiciled or "ordinarily resident" in Thailand if the bribe is committed outside Thailand?	✓ (in limited circumstances)	✓ ¹⁰ (in limited circumstances)
Foreign company/partnership if the bribe is committed abroad?	✓ (in limited circumstances)	✓ ¹⁰ (in limited circumstances)
Penalties		
Penalties include:	<ul style="list-style-type: none"> — Imprisonment up to five years — A fine amounting to 50% of the amount representing the highest bid made between co-offenders or the value of the contract, whichever is greater 	<ul style="list-style-type: none"> — Up to life imprisonment — The death penalty — A fine of up to THB 40,000
Defences		
Are there any defences available?	✓ (lack of intent)	✓ (lack of intent)

¹ If the relevant intent to induce an official to act contrary to their duty is established.

² In addition, the offence also covers the bribery of foreign state officials, and officials from international organisations.

³ Theoretically, individuals and juristic persons can be liable under the Thai Criminal Code. In the case of legal persons, it is generally the case that the director(s) or the person in charge for the operation of the juristic person will also be prosecuted

⁴ Where a partnership (including a limited liability partnership) is accused of committing an offence under s. 144, it is generally the case that the partner(s) will also be prosecuted. Provided they had intent to commit the act and knowledge of the facts.

⁶ Provided the offender is involved with the juristic person (e.g. company, partnership) and acts for the benefit of that juristic person where such juristic person does not have appropriate internal control measures to prevent such bribery. The person involved with the juristic person shall mean an employee, a representative, an affiliated company or any person who acts for or on behalf of such juristic person, whether they have the power or duties in such matter or not.

⁷ Provided that the offender is a Thai national or state official, or the offence is committed against a Thai national or state official.

⁸ If the relevant intent to induce an official to obtain a government contract or to distort prices in the bidding for government contracts is established.

⁹ Officials under the Offences of Officials of State Organisations or State Agencies Act also include the employees of state enterprises.

¹⁰ Individuals and juristic persons can be liable under the Act on Offences Committed by Officials of State Organisations as a supporter of an official who commits the offence.

Albania

Source of law		Criminal Code (Law no. 7895, dated 27 January 1995) Criminal liability of legal entities (Law no. 9754, dated 14 June 2007) Public collaboration in the fight against corruption (Law no. 9508, dated 3 April 2006)
Offence		Active corruption in the private sector The direct or indirect promise, offer, or gift to a person who exercises a management function in a commercial company or who works in any other position in the private sector, of any irregular benefit for himself or for a third party, in order to act or not to act contrary to his duty. Passive corruption in the private sector The direct or indirect soliciting or taking of any irregular benefit or of any such promise for himself or for a third party, or accepting an offer or a promise that follows from the irregular benefit by the person who exercises a management function or whatever other position in the private sector in order to act or not to act contrary to his duty.
The bribe		
Is there a presumption that any advantage was given/received corruptly?		X
Would facilitation payments be caught?		✓
Would corporate hospitality be caught?		Depends on intent ¹
Is there any <i>de minimis</i> ?		X
Does the bribe have to be monetary?		X
Public officials		
Does the offence only apply to bribing public officials?		X
Acts performed outside Albania		
Can bribery performed outside Albania be caught?		✓ ² (regarding foreign nationals under certain conditions)
Does the act also need to be illegal in the foreign country of performance?		✓ (it depends on International Conventions between Albania and the state where the crime was perpetrated)
Who can be liable		
Albanian national?		✓
Albanian company?		✓ (for criminal offences committed in Albania)
Albanian partnership (including limited liability partnership) incorporated?		✓ (for criminal offences committed in Albania)
Director of Albanian company?		✓
Albanian company if the bribe is committed abroad by its foreign subsidiary?		X
Foreign subsidiary of an Albanian company if the bribe is committed abroad?		X
Foreign national / company / partnership if bribe is committed in Albania?		✓ ³ (with regard to companies and partnerships under certain conditions)
Foreign national domiciled or "ordinarily resident" in Albania if bribe is committed outside Albania?		✓ ⁴ (under certain conditions)
Foreign company / partnership if bribe is committed abroad?		X
Penalties		
Penalties include:		Private Sector Individuals — Active corruption, imprisonment for up to three years — Passive corruption, imprisonment for up to five years Companies — Active and passive corruption, fine up to EUR 40,000 — Misdemeanours, fine up to EUR 8,000 — Other penalties such as termination, restriction of operation, debarment from tendering for public contracts; confiscation of benefits derived from bribery
Defences		
Are there any defences available?		X

¹ Corporate hospitality could be caught if it is offered for the purpose of benefiting from irregular and / or illegal procedures or acts.

² Albanian criminal law is applicable to foreign nationals where the bribe is committed outside Albania and the offence is against the interests of the Albanian Government or citizens.

³ Albanian criminal law applies to foreign companies and partnerships only if these are considered to have a permanent establishment in Albania.

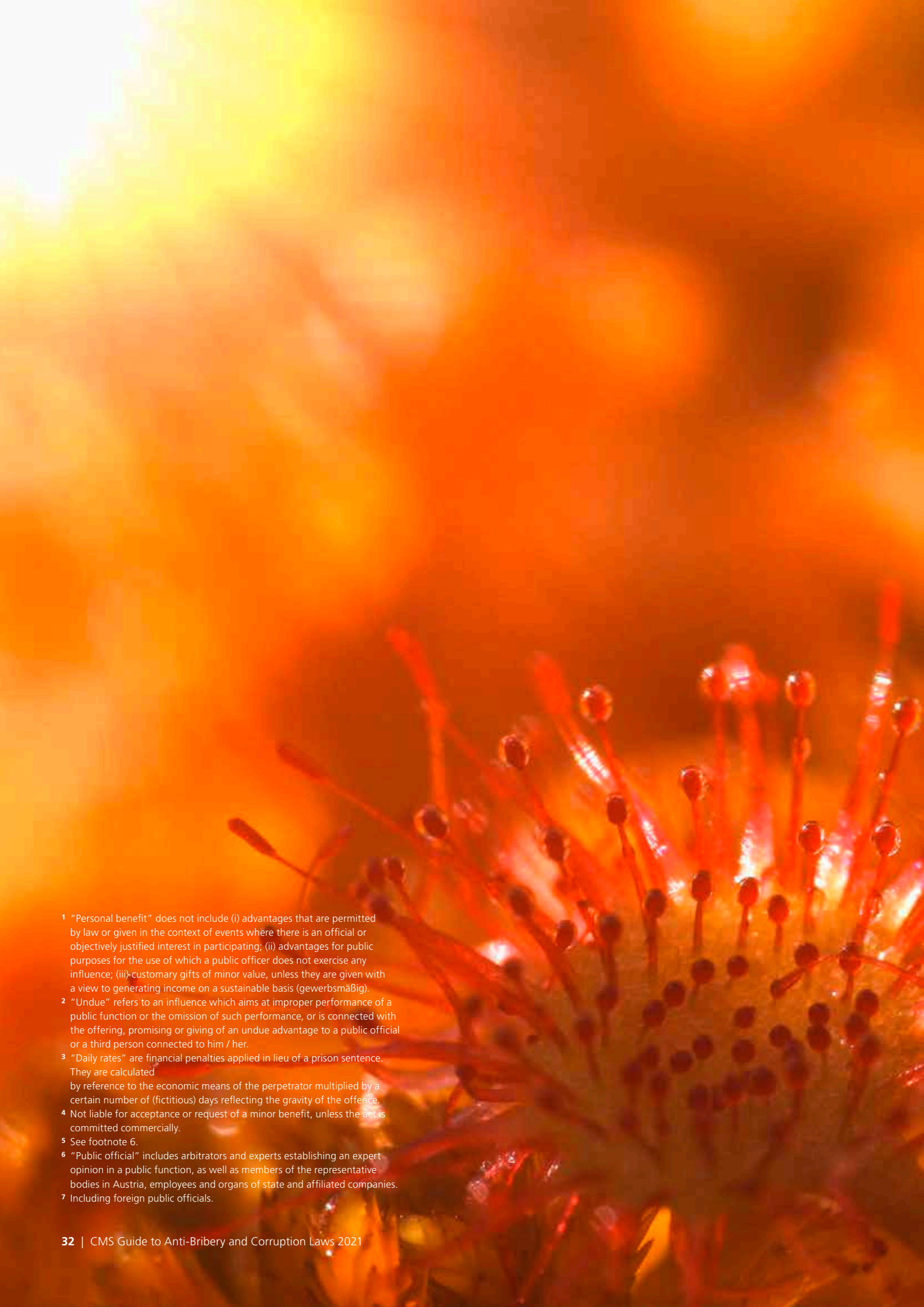
⁴ Only if the bribe committed outside the jurisdiction is against the interests of the Albanian Government or citizens.

Austria

Source of law	s304 and 305 of the Austrian Criminal Code (Strafgesetzbuch)	s306 of the Austrian Criminal Code	s307 of the Austrian Criminal Code
Offence	Being Bribed s304: Public Sector Bribery Requesting, accepting or being promised a personal benefit ¹ or a benefit for a third person as a condition for the improper performance or omission of a public function. s305: Acceptance of benefits Accepting or being promised a personal benefit or a benefit for a third person as a condition for the improper performance or omission of a business activity.	Being Bribed Acceptance of benefits with the intent of being influenced Requesting a personal benefit or a benefit for a third person or accepting an undue ² benefit with the intent of being influenced in the exercise of a public function.	Bribing Public Sector Bribery Offering, promising or giving to a public official ⁶ or to a third person a financial or other benefit with the intent of inducing the public official to improperly perform a public function ⁷ .
The bribe			
Is there a presumption that any advantage was given/received corruptly?	X	X	X
Would facilitation payments be caught?	✓ (if an improper performance results, s305 regarding the acceptance of benefits (<i>Vorteilsannahme</i>) is applicable)	✓	✓ (if improper performance results, s307a on the grant of benefits (<i>Vorteilszuwendung</i>) is applicable)
Would corporate hospitality be caught?	✓ (depending on intent)	✓	✓ (depending on intent)
Is there any <i>de minimis</i> ?	X (certain gifts of minor value are not considered an advantage)	X (certain gifts of minor value are not considered an advantage)	X (certain gifts of minor value are not considered an advantage)
Does the bribe have to be monetary?	X	X	X
Public officials			
Does the offence only apply to bribing public officials?	✓	✓	✓
Acts performed outside Austria			
Can bribery performed outside Austria be caught?	✓ (if committed by an Austrian national or a company or partnership which is incorporated in Austria)	✓ (if committed by an Austrian national or a company or partnership which is incorporated in Austria)	✓ (if committed by an Austrian national or a company or partnership which is incorporated in Austria)
Does the act also need to be illegal in the foreign country of performance?	X	X	X
Who can be liable			
Austrian national?	✓	✓	✓
Austrian company?	✓	✓	✓
Austrian partnership (including limited liability partnership)?	✓	✓	✓
Director of Austrian company?	✓	✓	✓
Austrian company if the bribe is committed abroad by its foreign subsidiary?	X	X	X
Foreign subsidiary of an Austrian company if the bribe is committed abroad?	X	X	X
Foreign national / company / partnership if bribe is committed in Austria?	✓	✓	✓
Foreign national domiciled or "ordinarily resident" in Austria if bribe is committed outside Austria?	✓	✓	✓
Foreign company / partnership if bribe is committed abroad?	X	X	X
Penalties			
Penalties include:	Individuals — Imprisonment for up to three years — When advantage exceeds EUR 3,000: imprisonment between six months and five years — When advantage exceeds EUR 50,000: imprisonment between one and ten years s304: Companies / Partnerships — Maximum fines between 55 – 130 daily rates ³ depending on amount of advantage given / offered s305: Companies / Partnerships — Maximum fines between 40 – 100 daily rates	Individuals⁴ — Imprisonment for up to two years — When advantage exceeds EUR 3,000: imprisonment up to three years — When advantage exceeds EUR 50,000: imprisonment between six months and five years Companies / Partnerships⁵ — Maximum fines between 40 – 100 daily rates depending on amount of advantage given / offered	Individuals — Imprisonment for up to three years — When advantage exceeds EUR 3,000: imprisonment between six months and five years — When advantage exceeds EUR 50,000: imprisonment between one and ten years Companies / Partnerships — Fines between 55 – 130 daily rates depending on amount of advantage given / offered
Defences			
Are there any defences available?	X (but see definition of "personal benefit" above)	X	X

Austria (continued)

Source of law	s307a and 307b of the Austrian Criminal Code	s308 of the Austrian Criminal Code	s309 of the Austrian Criminal Code
Offence	Bribing s307a: Granting of benefits Offering, promising or giving to a public official or a third person an undue benefit in exchange for such public official to improperly perform a public function. s307b: Granting of benefits to influence Intentionally offering, promising or giving an undue benefit to a public official or a third person with the intent of influencing the performance of the public function by the public official.	Being Bribed/Bribing Illicit intervention Requesting, being promised, or accepting a personal benefit or an advantage for a third person for exercising undue influence on the decision-making of a public official; or Offering, promising or giving of a benefit to a third person in exchange for such third person influencing the decision-making of a public official.	Being Bribed/Bribing Private Sector Bribery Requesting or accepting a personal benefit or a benefit for a third person for the improper performance or omission of a business activity; or Offering, promising or giving to an employee or agent of a company a financial or other benefit in his favour or in favour of a third person with the intent of inducing improper performance of a business activity.
The bribe			
Is there a presumption that any advantage was given/received corruptly?	X	X	X
Would facilitation payments be caught?	✓	✓	✓
Would corporate hospitality be caught?	✓ s307a (depending on intent) ✓ s307b	✓ (depending on intent)	✓ (depending on intent)
Is there any <i>de minimis</i> ?	X (certain gifts of minor value are not considered an advantage)	X (certain gifts of minor value are not considered an advantage)	X (certain gifts of minor value are not considered an advantage)
Does the bribe have to be monetary?	X	X	X
Public officials			
Does the offence only apply to bribing public officials?	✓	✓	X (only applicable to private persons)
Acts performed outside Austria			
Can bribery performed outside Austria be caught?	✓ (if committed by an Austrian national or a company or partnership which is incorporated in Austria)	✓ (if committed by an Austrian national or a company or partnership which is incorporated in Austria)	✓ (if committed by an Austrian national or a company or partnership which is incorporated in Austria)
Does the act also need to be illegal in the foreign country of performance?	X	X	X
Who can be liable			
Austrian national?	✓	✓	✓
Austrian company?	✓	✓	✓
Austrian partnership (including limited liability partnership)?	✓	✓	✓
Director of Austrian company?	✓	✓	✓
Austrian company if the bribe is committed abroad by its foreign subsidiary?	X	X	X
Foreign subsidiary of an Austrian company if the bribe is committed abroad?	X	X	X
Foreign national / company / partnership if bribe is committed in Austria?	✓	✓	✓
Foreign national domiciled or "ordinarily resident" in Austria if bribe is committed outside Austria?	✓	✓	✓
Foreign company / partnership if bribe is committed abroad?	X	X	X
Penalties			
Penalties include:	Individuals — Imprisonment up to two years — When advantage exceeds EUR 3,000: imprisonment up to three years — When advantage exceeds EUR 50,000: imprisonment between six months and five years Companies / Partnerships — Fines between 40 – 100 daily rates depending on amount of advantage given / offered	Individuals — Imprisonment up to two years — When advantage exceeds EUR 3,000: imprisonment up to three years — When advantage exceeds EUR 50,000: imprisonment between six months and five years Companies / Partnerships — Fines between 40 – 100 daily rates depending on amount of advantage given / offered	Individuals — Imprisonment for up to two years — When advantage exceeds EUR 3,000: imprisonment up to three years — When advantage exceeds EUR 50,000: imprisonment between six months and five years Companies / Partnerships — Fines between 40 – 100 daily rates depending on amount of advantage given / offered
Defences			
Are there any defences available?	X	X	X

- 
- ¹ "Personal benefit" does not include (i) advantages that are permitted by law or given in the context of events where there is an official or objectively justified interest in participating; (ii) advantages for public purposes for the use of which a public officer does not exercise any influence; (iii) customary gifts of minor value, unless they are given with a view to generating income on a sustainable basis (gewerbsmäßig).
- ² "Undue" refers to an influence which aims at improper performance of a public function or the omission of such performance, or is connected with the offering, promising or giving of an undue advantage to a public official or a third person connected to him / her.
- ³ "Daily rates" are financial penalties applied in lieu of a prison sentence. They are calculated by reference to the economic means of the perpetrator multiplied by a certain number of (fictitious) days reflecting the gravity of the offence.
- ⁴ Not liable for acceptance or request of a minor benefit, unless the act is committed commercially.
- ⁵ See footnote 6.
- ⁶ "Public official" includes arbitrators and experts establishing an expert opinion in a public function, as well as members of the representative bodies in Austria, employees and organs of state and affiliated companies.
- ⁷ Including foreign public officials.

Belgium

Source of law	Public Bribery (Article 246 & foll. Criminal Code)	Private Bribery (Article 504bis & foll. Criminal Code)
Offence	Active Public Bribery Offering, promising or giving (directly or indirectly) an advantage of any kind to a person exercising a public function, either for himself or a third party, in order to induce him to: <ol style="list-style-type: none"> 1. Perform an act within the scope of his responsibilities which is not subject to remuneration; 2. Perform an improper act, or refrain from a proper one, in the exercise of his function; 3. Commit an offence in the exercise of his function; or 4. Use influence derived from his function to obtain performance or non-performance of an act by a public authority. Passive Public Bribery A person exercising a public function requesting or accepting directly or via another person an offer, promise or any advantage for himself or a third party, to act as described in (1) to (4) above.	Active Private Bribery Offering or giving to a company director any advantage intending to induce him to act, or to refrain from certain acts within his functions or accepting such advantage without the board of directors' authorisation. Passive Private Bribery A person acting as a director or employee of a company requesting or accepting directly or through another person an offer, promise or any advantage for himself or a third party, to do or refrain from doing certain acts within his function, without the board of directors' authorisation.
The bribe		
Is there a presumption that any advantage was given/received corruptly?	X	X
Would facilitation payments be caught?	✓ ¹	✓ ¹
Would corporate hospitality be caught?	✓ ²	✓ ³
Is there any <i>de minimis</i> ?	X	X
Does the bribe have to be monetary?	X	X
Public officials		
Does the offence only apply to bribing public officials?	✓	X
Acts performed outside Belgium		
Can bribery performed outside Belgium be caught?	✓	✓
Does the act also need to be illegal in the foreign country of performance?	X	✓
Who can be liable		
Belgian national?	✓	✓
Belgian company?	✓	✓
Belgian partnership (including limited liability partnership)?	✓	✓
Director of Belgian company?	✓ (either directly or if the director consented or connived in an offence committed by the company)	✓ (either directly or if the director consented or connived in an offence committed by the company)
Belgian company if the bribe is committed abroad by its foreign subsidiary?	✓	✓
Foreign subsidiary of a Belgian company if the bribe is committed abroad?	✓	✓
Foreign national/company/partnership if the bribe is committed in Belgium?	✓	✓
Foreign national domiciled or "ordinarily resident" in Belgium if the bribe is committed outside Belgium?	✓	✓ (but the act also needs to be illegal in the foreign country of performance)
Foreign company/partnership if the bribe is committed abroad?	X	X
Penalties		
Penalties include:	Individuals <ul style="list-style-type: none"> — Fine up to EUR 800,000 — Imprisonment up to five years — Confiscation of the proceeds of the offence — Professional restrictions i.e. restrictions may be imposed on the power of company directors, auditors or managers Legal entities <ul style="list-style-type: none"> — Fine up to EUR 1.6m — Confiscation of the proceeds of the offence — Debarment from tendering When the bribery concerns a person exercising a public function in a foreign country or in an organisation governed by public international law, the maximum fine mentioned above is quintupled	Individuals <ul style="list-style-type: none"> — Fine up to EUR 400,000 — Imprisonment up to three years — Confiscation of the proceeds of the offence Legal entities <ul style="list-style-type: none"> — Fine up to EUR 800,000 — Confiscation of the proceeds of the offence — Debarment from tendering
Defences		
Are there any defences available?	X	X



¹ The law does not provide for any exceptions for facilitation payments. The size of the offer, promise or advantage is not relevant.

² Moderate hospitality and gifts are tolerated. However, they should be moderate and are acceptable only if the giver has no intention of persuading the public official to commit an act relating to his official job duties.

³ Moderate hospitality and gifts are tolerated. However, they should be moderate and are acceptable only if the giver has no intention of persuading the director or the company's employee to act or to refrain from certain acts within his functions.

Bosnia and Herzegovina

Sources of law	<i>Criminal Code of Bosnia and Herzegovina, Criminal Code of Federation of Bosnia and Herzegovina, Criminal Code of Republika Srpska and Criminal Code of Brčko District</i>
Offence	<p>Bribing Giving or promising (directly or indirectly) a gift or other benefit to an official (including a foreign public official or an international official) or responsible person in the institutions of Bosnia and Herzegovina, an arbiter or juror judge to induce performance or non-performance of an act within the scope of his official powers (whether or not the act should or should not have been performed by the person).</p> <p>Being bribed Requesting or accepting such a gift or benefit or facilitating bribing by an official (including a foreign public official or an international official) or a responsible person in the institutions of Bosnia and Herzegovina, an arbiter or juror judge in return for performance or non-performance of an act within the scope of his official powers, or as a reward for such performance or non-performance (whether or not the act should or should not have been performed by the person).¹</p> <p>Bribing for trafficking of influence Giving or promising a gift or other benefit to a person who has an official, social or influential position or other status to facilitate or induce performance or non-performance of an activity by an official, responsible person in the institutions of Bosnia and Herzegovina, foreign official, international official, arbiter or juror judge.</p> <p>Being bribed for trafficking of influence Requesting or accepting a gift or other benefit directly or indirectly in order to use his/her influential position or other status (or facilitating by using his/her influence) to induce performance or non-performance of an official activity by an official, responsible person in the institutions of Bosnia and Herzegovina, foreign official, international official, arbiter or juror judge.</p>
The bribe	
Is there a presumption that any advantage was given/received corruptly?	X
Would facilitation payments be caught?	✓
Would corporate hospitality be caught?	Depends on intent
Is there any <i>de minimis</i> ?	X
Does the bribe have to be monetary?	X
Public officials	
Does the offence only apply to bribing public officials?	✓ ²
Acts performed outside Bosnia	
Can bribery performed outside Bosnia be caught?	✓ ³
Does the act also need to be illegal in the foreign country of performance?	✓
Who can be liable	
Bosnian national?	✓
Bosnian company?	✓
Bosnian partnership (including limited liability partnership)?	✓
Director of Bosnian company?	✓
Bosnian company if the bribe is committed abroad by its foreign subsidiary?	✓ (if action on behalf of company in Bosnia)
Foreign subsidiary of a Bosnian company if the bribe is committed abroad?	✓
Foreign national / company / partnership if bribe is committed in Bosnia?	✓
Foreign national domiciled or "ordinarily resident" in Bosnia if bribe is committed outside Bosnia?	✓
Foreign company / partnership if bribe is committed abroad?	✓ ³
Penalties	
Penalties include:	<p>Individuals</p> <ul style="list-style-type: none"> — Bribing: imprisonment for up to five years (for performing an unauthorised act; or not doing what should have been done); fine or imprisonment for up to three years (for doing what should have been done (by accepting a facilitation payment); or for not doing what should have been done) — Being bribed: imprisonment for up to ten years (for performing an unauthorised act; or not doing what should have been done); imprisonment for up to five years (for doing what should have been done (by accepting a facilitation payment); or for not doing what should have been done) — Bribing for trafficking of influence: imprisonment for up to five years — Being bribed for trafficking of influence: imprisonment for up to five years; while for facilitating by using influence imprisonment for up to eight years is prescribed, or for up to ten years if the person requested or received or accepted a reward or any other benefit for himself or another — Confiscation of property gained through the perpetration of the criminal act <p>Companies</p> <ul style="list-style-type: none"> — Depending on the circumstances of the individual case: fines, confiscation orders and/or dissolution of the company
Defences	
Are there any defences available?	✓



¹ Not to be confused with the Conflict of Interest laws, namely BiH, FBiH, RS and BD, which regulate situations where gifts (any payment, entertainment, service or item of value) are given directly to the recipient (elected officials, executive officeholders and advisors of governmental institutions) without compensation or expectation of compensation. Such gifts may be kept by recipients up to a certain value, and liability for breach is only on the recipient.

² The Criminal Codes of Federation of Bosnia and Herzegovina, Republika Srpska and Brcko District provide that a “responsible person” also refers to responsible individuals in private companies as well as those in public institutions. While not explicit in the Criminal Code of Bosnia and Herzegovina, it may be that these offences could be used in the context of private sector bribery, although there has yet to be a prosecution to confirm the position.

³ If the wrongdoer was on Bosnia and Herzegovina soil at the time of committing the offence and the potential penalty for the offence in the country where it was committed is five years’ imprisonment or more.

⁴ The individual who has given a bribe at the request of an official or responsible person in the institutions of Bosnia and Herzegovina, including a foreign official or international civil servant, can be cleared of charges if he or she reports the deed before it has been discovered or before becoming aware that the deed has been discovered. The gift or other benefit, if seized from the person who accepted the bribe, may be returned to the individual who committed the bribe.

Bulgaria

Source of law		
Offence	Criminal Code, Administrative Offences and Sanctions Act ¹	
	Recipient An official (including a foreign official) accepting any offer / promise of a gift or other undue benefit to perform or refrain from performing an act connected with his office, or because he has performed or refrained from performing such an act. The offence is committed also where, with the consent of the official, the gift or the undue benefit has been offered, promised or given to a third person. Briber Any person offering, promising or giving a gift or any other benefit to an official (including a foreign official) in order to perform or to refrain from performing an act connected with his office, or because the official has performed or has refrained from performing such an act.	Recipient Any person requesting or accepting an offer or promise of a gift, or any undue benefit to exert influence over a domestic or foreign public official in relation to the decision-making of such official. Briber Any person offering, promising or giving a gift or any undue benefit to a person who alleges that it may exert influence over a domestic or foreign public official in relation to the decision-making of such official.
The bribe		
Is there a presumption that any advantage was given/received corruptly?	X	X
Would facilitation payments be caught?	✓	✓
Would corporate hospitality be caught?	Depends on intent	Depends on intent
Is there any <i>de minimis</i> ?	X (except for the general restriction) ³	X (except for the general restriction) ³
Does the bribe have to be monetary?	X	X
Public officials		
Does the offence only apply to bribing public officials?	✓	✓
Acts performed outside Bulgaria		
Can bribery performed outside Bulgaria be caught?	✓ (if committed by (i) a Bulgarian national, or (ii) a foreign national, where the offence concerned Bulgaria or a Bulgarian citizen)	✓ (if committed by (i) a Bulgarian national, or (ii) a foreign national, where the offence concerned Bulgaria or a Bulgarian citizen)
Does the act also need to be illegal in the foreign country of performance?	X	X
Who can be liable		
Bulgarian national?	✓	✓
Bulgarian company?	X (only individuals caught)	X (only individuals caught)
Bulgarian partnership (including limited liability partnership)?	X (only individuals caught)	X (only individuals caught)
Director of Bulgarian company?	Recipient: X Briber: ✓ (if implicated in the actual offence)	Recipient: X Briber: ✓ (if implicated in the actual offence)
Bulgarian company if the bribe is committed abroad by its foreign subsidiary?	X	X
Foreign subsidiary of a company incorporated in Bulgaria if the bribe is committed abroad?	X	X
Foreign national / company / partnership if bribe is committed in Bulgaria?	✓	✓
Foreign national domiciled or “ordinarily resident” in Bulgaria if bribe is committed outside Bulgaria?	✓	✓
Foreign company / partnership if bribe is committed abroad?	X	X
Penalties		
Penalties include:	Recipient — Imprisonment for up to 30 years — Fine of up to EUR 15,000 — Confiscation of assets — Disqualification from taking similar offices Briber — Imprisonment for up to ten years — Fine of up to EUR 7,500 In both cases the benefit is expropriated	Recipient — Imprisonment for up to six years — Fine of up to EUR 2,500 Briber — Imprisonment for up to three years — Fine of up to EUR 1,500 In both cases the benefit is expropriated
Defences		
Are there any defences available?	X	X

Bulgaria (continued)

Source of law	<i>Criminal Code, Administrative Offences and Sanctions Act</i>		
Offence	<p>Criminal offences related to the employment of officials²</p> <p>Recipient Any person, who performs a job for a legal entity, requesting or accepting an offer / promise of a gift or any undue benefit in order to perform an act, or to refrain from doing so, in breach of his / her duties related to the business activities of the entity. The offence is also committed where, with the consent of the person, the gift or the undue benefit has been offered, promised or given to a third person.</p> <p>Briber Any person offering, promising or giving a gift or any benefit to another person, who performs a job for a legal entity, in order for the latter to perform an act or to refrain from doing so, in breach of his / her duties related to the business activities of the entity.</p>	<p>Middleman Any person mediating the commission of any of the offences in the previous columns. (This would be a separate offence only where the involvement of the person is so limited that he cannot be considered as an accomplice in committing any of the other offences).</p>	<p>Administrative liability related to criminal offences in public and private sector</p> <p>Benefiting entity A legal entity which has benefited or which could have benefited from any of the criminal offences in this table, committed by:</p> <ol style="list-style-type: none"> 1. a person that makes decisions for the entity; or 2. a person representing the entity; or 3. a member of a controlling or supervisory board of the entity; or 4. an employee of the entity, mandated by it to perform a certain activity, if the criminal offence was committed in relation to performance of that activity.
The bribe			
Is there a presumption that any advantage was given/received corruptly?	X	X	X
Would facilitation payments be caught?	✓	✓	✓
Would corporate hospitality be caught?	Depends on intent	Depends on intent	✓ (if, depending on the intent, any of the aforementioned qualifies as a crime)
Is there any <i>de minimis</i> ?	X (except for the general restriction) ³	X (except for the general restriction) ³	X (except for the general restriction) ³
Does the bribe have to be monetary?	X	X	X
Public officials			
Does the offence only apply to bribing public officials?	X (applies only to officials of a private entity)	X (applies to both public and private sectors)	X (applies to both public and private sectors)
Acts performed outside Bulgaria			
Can bribery performed outside Bulgaria be caught?	✓ (if committed by (i) a Bulgarian national, or (ii) a foreign national, where the offence concerned Bulgaria or a Bulgarian citizen)	✓ (if any of the conditions under (i) or (ii) in previous columns were satisfied)	✓ (if any of the conditions under (i) or (ii) in previous columns were satisfied)
Does the act also need to be illegal in the foreign country of performance?	X	X	X
Who can be liable			
Bulgarian national?	✓	✓	X
Bulgarian company?	X (only individuals caught)	X (only individuals caught)	✓
Bulgarian partnership (including limited liability partnership)?	X (only individuals caught)	X (only individuals caught)	X
Director of Bulgarian company?	✓ (if implicated in the actual offence)	✓ (if implicated in the actual offence)	X
Bulgarian company if the bribe is committed abroad by its foreign subsidiary?	X	X	X (unless the individual implicated in committing the actual offence acted also for the Bulgarian company under any of one to four above)
Foreign subsidiary of a company incorporated in Bulgaria if the bribe is committed abroad?	X	X	X
Foreign national / company / partnership if bribe is committed in Bulgaria?	✓ (individual only)	✓ (individual only)	✓
Foreign national domiciled or "ordinarily resident" in Bulgaria if bribe is committed outside Bulgaria?	✓ (if the offence concerns Bulgaria or a Bulgarian citizen)	✓ (if the offence concerns Bulgaria or a Bulgarian citizen)	✓ (if the condition in the previous columns is satisfied)
Foreign company / partnership if bribe is committed abroad?	X	X	X
Penalties			
Penalties include:	<p>Recipient</p> <ul style="list-style-type: none"> — Imprisonment for up to five years — Fine of up to EUR 10,000 <p>Briber</p> <ul style="list-style-type: none"> — Imprisonment for up to three years — Fine of up to EUR 7,500 <p>In both cases the benefit is expropriated</p>	<ul style="list-style-type: none"> — Imprisonment for up to three years — Fine of up to EUR 2,500 <p>The benefit is expropriated</p>	<ul style="list-style-type: none"> — Fine up to EUR 500,000 but not less than the benefit received by the entity <p>The benefit is expropriated</p>
Defences			
Are there any defences available?	X	X	X



¹ Applies also to managers and directors of private entities and companies.

² Applies also to managers and directors of private entities and companies.

³ If the offence is so insignificant that it is not damaging to the public interest or the damage to public interest is insignificant, there would be no offence.

Croatia

Source of law		Criminal Act ¹ , Act on Criminal Liability of Legal Entities ²
Offence		<ul style="list-style-type: none"> — Giving a bribe in business activities (Article 253 CA): offering, promising or giving a bribe (or intermediating in those actions) during a business activity in order to favour the briber or someone else by or when making or performing a deal or rendering services, to the detriment of an entity the recipient represents or works for. — Accepting a bribe in business activities (Article 252 CA): demanding or accepting a bribe (or the offer or promise of a bribe), or intermediating in those actions, during a business activity in order to favour someone by or when making or performing a deal or rendering services, to the detriment of an entity they represent or work for. — Giving a bribe (Article 294 CA): offering, promising or giving a bribe (or intermediating in those actions) to an official³ or responsible person⁴ in order for them to (within or outside their powers) perform / not perform an action which should not / should be performed. — Accepting a bribe (Article 293 CA): demanding or accepting a bribe or the offer or promise of a bribe by an official or responsible person for themselves or someone else, in order for them to (within or outside their powers) perform / not perform an action which should not / should be performed, as well as demanding or accepting a bribe after performing / not performing such action. — Giving a bribe for trading in influence (Article 296 CA): offering, promising or giving a bribe (or intermediating in those actions) in order for someone to use the official or social status or influence for performing / not performing an action which should not / should be performed. — Trading in influence (Article 295 / 2, 3 CA): demanding or accepting a bribe or the offer or promise of a bribe (or intermediating in those actions) in order to use the official or social status or influence for not performing / performing action which should / should not be performed. — Bribing a representative (Article 339 CA): demanding or accepting a bribe or the offer or promise of a bribe by a representative in the Croatian or European Parliament or in a local and regional representative body, in order to vote in a certain way, as well as offering / promising / giving of such bribe. — Accepting and giving a bribe in insolvency proceedings (Article 251 CA): demanding or accepting a bribe or the offer or promise of a bribe, by a creditor, a member of a board of creditors or insolvency trustee, to vote or not to vote in a certain way or otherwise act to harm at least one creditor in insolvency proceedings, as well as offering/ promising / giving of such bribe.
The bribe		
Is there a presumption that any advantage was given/received corruptly?		X
Would facilitation payments be caught?		✓
Would corporate hospitality be caught?		✓
Is there any <i>de minimis</i> ?		✓ ⁵
Does the bribe have to be monetary?		✓
Public officials		
Does the offence only apply to bribing public officials?		X (except for the offence of bribing a representative)
Acts performed outside Croatia		
Can bribery performed outside Croatia be caught?		✓
Does the act also need to be illegal in the foreign country of performance?		✓
Who can be liable		
Croatian National?		✓
Croatian company?		✓
Croatian partnership (including limited liability partnership)?		✓
Director of Croatian company?		✓
Croatian company if the bribe is committed abroad by its foreign subsidiary?		✓ (provided the criminal offence was conducted against the Republic of Croatia or a Croatian national or a Croatian legal entity)
Foreign subsidiary of a Croatian company if the bribe is committed abroad?		✓ (provided the criminal offence was conducted against the Republic of Croatia or a Croatian national or a Croatian legal entity)
Foreign national / company / partnership if bribe is committed in Croatia?		✓
Foreign national domiciled or "ordinarily resident" in Croatia if bribe is committed outside Croatia?		✓
Foreign company / partnership if bribe is committed abroad?		✓

Croatia (continued)

Penalties	
Penalties include:	<p>Individuals</p> <ul style="list-style-type: none"> — Imprisonment of up to five years (for offence Giving a bribe in business activities) — Imprisonment of up to eight years (for offences Accepting and giving a bribe in the insolvency proceeding, Accepting a bribe in business activities, Giving a bribe, Giving a bribe for trading in influence and Bribing a representative) — Imprisonment of up to ten years (for offences Accepting a bribe and Trading in influence) <p>Companies</p> <ul style="list-style-type: none"> — Fines up to HRK 12m (circa EUR 1.6m) — Cessation of legal entity — Probationary sentence — Various safety measures⁶ — Seizure of gained profit, seizure of objects and publishing of the verdict
Defences	
Are there any defences available?	✓ ⁷

¹ Criminal Act (Croatian: Kazneni zakon, Official Gazette of Republic of Croatia No. 125 / 11, as amended; hereinafter referred to as "CA").

² Act on Criminal Liability of Legal Entities (Croatian: Zakon o odgovornosti pravnih osoba za kaznena djela, Official Gazette of Republic of Croatia No. 151 / 03, as amended).

³ An official person is a public official or an employee on a state or local / regional level, a judicial official, a juror, a member of a Croatian National Judicial Council and Croatian State Prosecutorial Council, an arbitrator, a public notary, a professional worker who performs activities in the field of social welfare, upbringing and education, as well as any person performing those duties in European Union, a foreign country, an international organisation that Croatia is a member of, an international court of arbitration whose competence Croatia accepts.

⁴ A responsible person is a natural person who conducts the affairs of a company or is expressly or actually entrusted with conducting the affairs from the company's scope of work or the scope of work of the state authorities or local / regional authorities.

⁵ According to the Act on prevention of the conflict of interest (Croatian: Zakon o sprječavanju sukoba interesa, Official Gazette of Republic of Croatia No. 26 / 11, as amended), government officials can accept a gift or service of symbolic value (i.e. under HRK 500 (circa EUR 67)) if it does not put the official into a dependent and / or obligatory position towards the donor. Accepting money, securities and precious metals is not allowed.

⁶ Examples of safety measures include the prohibition of certain activities or transactions, prohibition of acquiring licences, authorisations, concessions or subventions, prohibition of doing business with beneficiaries of state or local budgets and confiscation of objects.

⁷ The perpetrator of the offences "Giving a bribe in business activities", "Giving a bribe" and "Giving a bribe for trading in influence" can be released from punishment if they gave the bribe upon request of a responsible person and if they reported the offence before it was discovered or before they found out that the offence was discovered. Companies can be released from punishment if they report the offence of the responsible person before it was discovered or before they found out that the offence was discovered.

Czech Republic

Source of law	
Act No. 40 / 2009 Coll., Czech Criminal Code; Act No. 418 / 2011 Coll., on Criminal Liability of Legal Entities	
Offence	Major offences <ul style="list-style-type: none"> — acceptance of a bribe — active bribery — indirect bribery <p>The Criminal Code defines a bribe as “offering, giving, requesting or accepting (directly or indirectly) in the public or private sector, an unauthorised benefit consisting in a direct material enrichment or other advantage which is obtained or is intended to be obtained by the bribed person or another person with his / her agreement, and to which s / he has no right.”¹</p> <p>Other special offences apply in relation to public tenders and public auctions.</p>
The bribe	
Is there a presumption that any advantage was given/received corruptly?	X
Would facilitation payments be caught?	✓
Would corporate hospitality be caught?	✓ ²
Is there any <i>de minimis</i> ?	X
Does the bribe have to be monetary?	X
Public officials	
Does the offence only apply to bribing public officials?	X
Acts performed outside Czech Republic	
Can bribery performed outside Czech Republic be caught?	✓ ³
Does the act also need to be illegal in the foreign country of performance?	✓ ⁴
Who can be liable	
Czech national?	✓
Czech company?	✓ ⁵
Czech partnership (including limited liability partnership)?	✓
Director of Czech company?	✓
Czech company if the bribe is committed abroad by its foreign subsidiary?	✓ ⁶
Foreign subsidiary of a Czech company if the bribe is committed abroad?	✓ ⁷
Foreign national/company/partnership if the bribe is committed in Czech Republic?	✓ ⁸
Foreign national domiciled or “ordinarily resident” in Czech Republic if the bribe is committed outside Czech Republic?	✓ ⁹
Foreign company/partnership if the bribe is committed abroad?	✓ ¹⁰
Penalties	
Penalties include:	Individuals <ul style="list-style-type: none"> — Imprisonment for up to 12 years, forfeiture of property, protective measures, (i.e. confiscation of an item/property (in part or whole))¹¹ monetary penalties up to CZK 36.5m (approx. EUR 1.35m), house arrest, community service, prohibition of entry to sporting, cultural and other social events, deportation, prohibition of residence and/or prohibition of keeping and breeding animals Companies <ul style="list-style-type: none"> — Monetary penalty up to CZK 1.46bn (approx. EUR 54m), forfeiture of property, forfeiture of a possessed item, protective measures (i.e. confiscation of an item/property (in part or whole))¹² publication of judgment, punishment by disqualification from participating in public tenders, applying for subsidy and grant programmes and/or prohibition of keeping and breeding animals; if held liable, the company may be dissolved (in extreme cases)
Defences	
Are there any defences available?	A legal entity may escape criminal liability if it can show it has exerted all efforts that could be justifiably expected from it to prevent the commission of further offences (e.g. a suitable and effective internal compliance programme is set up, internal regulations and policies are adopted, educational events take place etc.).

¹ s331 – 334 of the Criminal Code.

² Would have to be examined on a case by case basis. Can be prosecuted under certain circumstances.

³ If: (a) an offence is committed abroad by Czech or a person without Czech citizenship but permanently resident in the Czech Republic (s6 of the Criminal Code); or (b) a person (regardless of his/her citizenship) commits an offence abroad with the intention to have an impact in the Czech Republic (s4 of the Criminal Code).

⁴ If an offence is committed abroad by a foreigner or a person without Czech citizenship and not permanently resident (domiciled) in the Czech Republic and this person was caught in the Czech Republic and was not extradited for criminal proceedings in a foreign country (s8 of the Criminal Code).

⁵ However, the Czech Republic and self-governing territorial units in the exercise of public power are excluded from criminal liability (s6 of the Act on Criminal Liability of Legal Entities).

⁶ The company would be liable only if it would actually have benefited from the conduct of its foreign subsidiary or if the company would be an accessory to the crime of its subsidiary.

⁷ If the crime is committed for the benefit of a Czech company (s4 of the Act on Criminal Liability of Legal Entities).

⁸ If a foreign company / partnership has its branch or subsidiary in the Czech Republic, or it does business in the Czech Republic or it has its assets in the Czech Republic (s2 of the Act on Criminal Liability of Legal Entities).

⁹ If: (a) a foreign national is domiciled (s6 of the Criminal Code); or (b) a foreign national is “ordinarily resident” in the Czech Republic (please see footnote no. 4).

¹⁰ If the crime is committed for the benefit of a Czech company (s4 of the Act on Criminal Liability of Legal Entities).

¹¹ Can be imposed on third parties in addition to the offender.

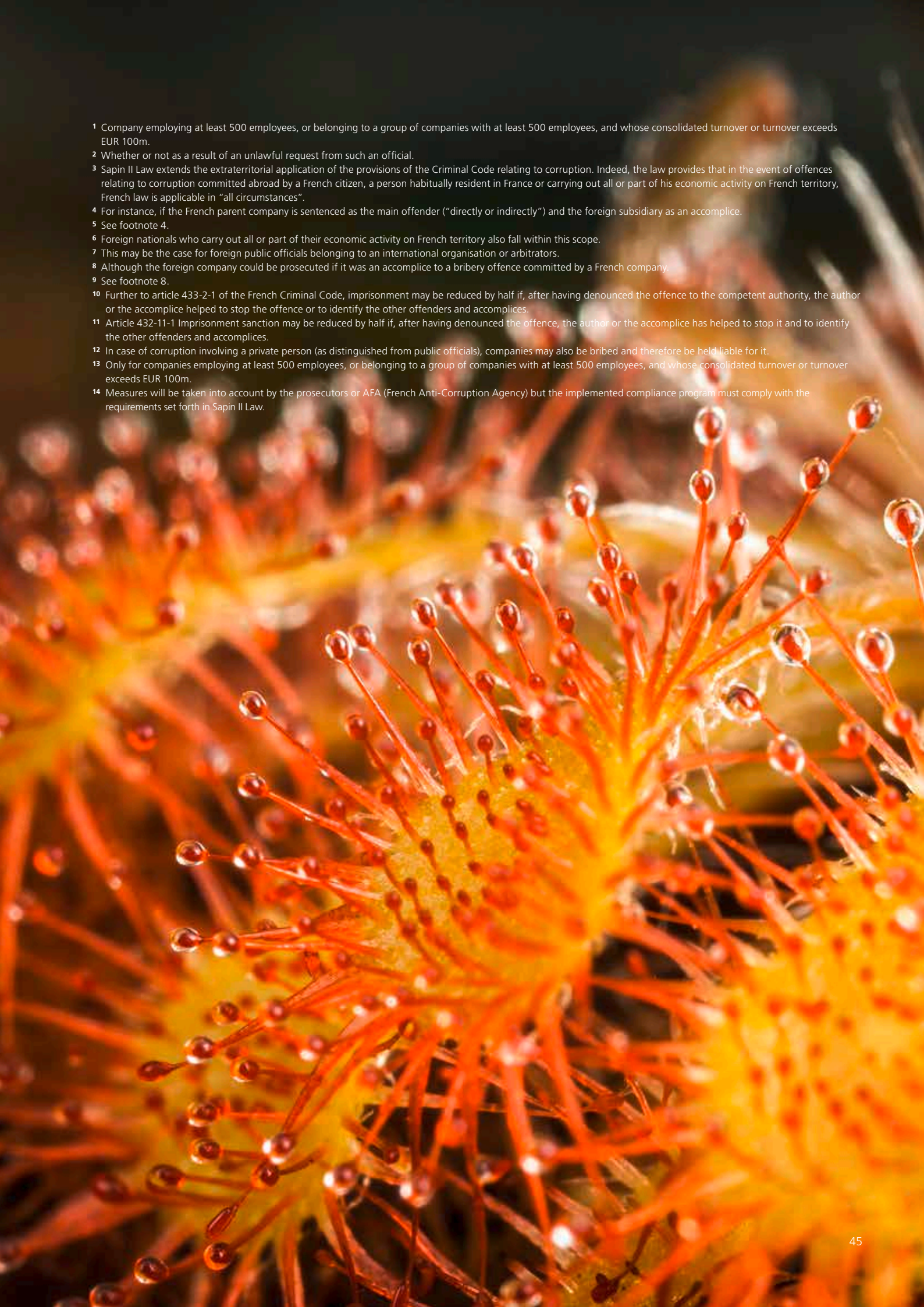
¹² Can be imposed on third parties in addition to the offender.

France

Sources of law		<p>International corruption: Articles 435-1 and seq of the French Criminal Code (French Statute of 13 November 2007, as amended by the French Statute of 17 May 2011 and the French Statute of 9 December 2016 (hereafter Sapin II Law))</p> <p>Domestic corruption: Articles 432-11 and seq., 433-1 and seq. (persons holding a public function), and Articles 445-1 and seq. (persons not holding a public function) of the French Criminal Code</p>
Offences	<p>Article 17 of the Sapin II Law, which came into force on June 1st, 2017 “Large companies”¹ and their managers failing to implement the eight internal preventive anti-corruption measures (such as a code of conduct including a disciplinary system in case of non-compliance by the employees, a corruption risk mapping of the company's exposure to external solicitations to bribery and an internal alert procedure).</p>	
	<p>Public Sector (various Articles of the French Criminal Code)</p> <p>Bribing</p> <p>Unlawfully offering, promising or giving² to a public official (including judicial officers and an elected foreign public official), directly or indirectly, any advantage for the future or past performance or non-performance of any act within the official's functions, duties or mandate.</p> <p>Private Sector (Article 445-1 and Seq. of the French Criminal Code)</p> <p>Bribing</p> <p>Unlawfully offering to a person holding a management position or any occupation, any advantage for the future or past performance or non-performance of any act within his activity or function, in breach of his legal, professional or contractual obligations.</p>	<p>Public Sector (various Articles of the French Criminal Code)</p> <p>Being Bribed</p> <p>A public official (including judicial officers and an elected foreign public official) unlawfully requesting or accepting for himself or another an advantage for the future or past performance or non-performance of any act within the official's functions, duties or mandate.</p> <p>Private Sector (Article 445-1 and Seq. of the French Criminal Code)</p> <p>Being Bribed</p> <p>A person holding a management position or any occupation, requesting or accepting, directly or indirectly, any advantage for the future or past performance of an act within his activity in breach of his legal, professional or contractual obligations.</p>
The bribe		
Is there a presumption that any advantage was given/received corruptly?	X	X
Would facilitation payments be caught?	✓	✓
Would corporate hospitality be caught?	✓	✓
Is there any <i>de minimis</i> ?	X	X
Does the bribe have to be monetary?	X	X
Public officials		
Does the offence only apply to bribing public officials?	X	X
Acts performed outside France		
Can bribery performed outside France be caught?	✓ ³	✓
Does the act also need to be illegal in the foreign country of performance?	X	X
Who can be liable		
French national?	✓	✓
Company incorporated in France?	✓	✓
French partnership (including limited liability partnership)?	✓	✓
Director of a French company?	✓	✓
French company if the bribe is committed abroad by its foreign subsidiary?	✓	✓
Foreign subsidiary of a French company if the bribe is committed abroad?	✓ ⁴	✓ ⁵
Foreign national / company / partnership if bribe is committed in France?	✓	✓
Foreign national domiciled or “ordinarily resident” in France if bribe is committed outside France?	✓ ⁶	✓ ⁷
Foreign company / partnership if bribe is committed abroad?	X ⁸	X ⁹

France (continued)

Penalties		
Penalties include:	<p>Bribing Individuals</p> <p><i>Corruption involving a person holding a public office:</i></p> <ul style="list-style-type: none"> — Imprisonment of up to ten years¹⁰ — Fines up to EUR 1m, where the fine can be increased up to double the value of the advantage resulting from the offence — Fines of up to EUR 200,000 for Chairmen, CEOs, managers, directors, on whom the law imposes responsibility for compliance with the new obligations — The French Anti-corruption agency can order the penalty to be made public / published <p><i>Corruption in the private sector:</i></p> <ul style="list-style-type: none"> — Imprisonment of up to five years. — Fines of up to EUR 500 000, where the amount of the fine can be increased up to twice the value of the advantage resulting from the offence — Fines of up to EUR 200,000 for Chairmen, CEOs, managers, directors, on whom the law imposes responsibility for compliance with the new obligations — Additional penalties such as deprivation of rights, professional restrictions, publication of the decision, and confiscation of what was used to commit the offence — The French Anti-corruption agency can order the penalty to be made public / published <p>Companies</p> <p><i>Corruption of a person holding a public office:</i></p> <ul style="list-style-type: none"> — Fines up to EUR 5m where the fine can be increased up to double the value of the advantage resulting from the offence — For a maximum of five years: <ul style="list-style-type: none"> • Prohibition from continuing the activity at stake • Placing under judicial supervision • Being banned from public markets • Exclusion from government procurement • Banning the entity from raising public funds • Banning the entity from writing cheques other than those allowing funds to be withdrawn, certified cheques or using credit cards — Publication of the decision — Confiscation — Since the implementation of Sapin II Law, fine up to EUR 1m if the program does not comply with legal requirements (i.e. failure to implement any of the eight measures provided for) — Fine of up to 30% of the company's turnover and the implementation of a compliance programme in case of a settlement with the public prosecutor 	<p>Being bribed Individuals</p> <p><i>Corruption involving a person holding a public office:</i></p> <ul style="list-style-type: none"> — Imprisonment of up to ten years¹¹ — Fines up to EUR 1m, where the fine can be increased up to double the value of the advantage resulting from the offence — Fines of up to EUR 200,000 for Chairmen, CEOs, managers, directors, on whom the law imposes responsibility for compliance with the new obligations — The French Anti-corruption agency can order the penalty to be made public / published <p><i>Corruption in the private sector:</i></p> <ul style="list-style-type: none"> — Imprisonment of up to five years — Fines up to EUR 500 000, where the amount of the fine can be increased up to twice the value of the advantage resulting from the offence — Fines of up to EUR 200,000 for Chairmen, CEOs, managers, directors, on whom the law imposes responsibility for compliance with the new obligations — Additional penalties such as deprivation of rights, professional restrictions, publication of the decision, and confiscation of what was used to commit the offence — The French Anti-corruption agency can order the penalty to be made public / published <p>Companies</p> <p><i>Corruption of a person holding a public office:</i></p> <ul style="list-style-type: none"> — Fines of up to EUR 5m where the fine can be increased up to double the value of the advantage resulting from the offence — Since the implementation of Sapin II Law, fine up to EUR 1m if the program does not comply with legal requirements (i.e. failure to implement any of the eight measures provided for) — Fine of up to 30% of the company's turnover and the implementation of a compliance programme in case of a settlement with the public prosecutor <p><i>Corruption of a person not holding a public office:¹²</i></p> <ul style="list-style-type: none"> — Fines up to EUR 2.5m where the amount of the fine can be increased up to twice the value of the advantage resulting from the offence — For a maximum of five years: <ul style="list-style-type: none"> • Prohibition from continuing the activity at stake • Placing under judicial supervision • Exclusion from government procurement • Being banned from public markets • Banning the entity from raising public funds • Banning the entity from writing cheques other than those allowing funds to be withdrawn, certified cheques or using credit cards — Publication of the decision — Confiscation — Since the implementation of Sapin II Law, fine up to EUR 1m if the program does not comply with legal requirements (i.e. failure to implement any of the eight measures provided for) — Fine of up to 30% of the company's turnover and the implementation of a compliance programme in case of a settlement with the public prosecutor
Defences		
Are there any defences available?	X	X
Is there an obligation to set up an anti-corruption Compliance Programme?		✓ ¹³
Is having a Compliance Programme in place a sufficient defence?		✓ ¹⁴

- 
- ¹ Company employing at least 500 employees, or belonging to a group of companies with at least 500 employees, and whose consolidated turnover or turnover exceeds EUR 100m.
- ² Whether or not as a result of an unlawful request from such an official.
- ³ Sapin II Law extends the extraterritorial application of the provisions of the Criminal Code relating to corruption. Indeed, the law provides that in the event of offences relating to corruption committed abroad by a French citizen, a person habitually resident in France or carrying out all or part of his economic activity on French territory, French law is applicable in "all circumstances".
- ⁴ For instance, if the French parent company is sentenced as the main offender ("directly or indirectly") and the foreign subsidiary as an accomplice.
- ⁵ See footnote 4.
- ⁶ Foreign nationals who carry out all or part of their economic activity on French territory also fall within this scope.
- ⁷ This may be the case for foreign public officials belonging to an international organisation or arbitrators.
- ⁸ Although the foreign company could be prosecuted if it was an accomplice to a bribery offence committed by a French company.
- ⁹ See footnote 8.
- ¹⁰ Further to article 433-2-1 of the French Criminal Code, imprisonment may be reduced by half if, after having denounced the offence to the competent authority, the author or the accomplice helped to stop the offence or to identify the other offenders and accomplices.
- ¹¹ Article 432-11-1 Imprisonment sanction may be reduced by half if, after having denounced the offence, the author or the accomplice has helped to stop it and to identify the other offenders and accomplices.
- ¹² In case of corruption involving a private person (as distinguished from public officials), companies may also be bribed and therefore be held liable for it.
- ¹³ Only for companies employing at least 500 employees, or belonging to a group of companies with at least 500 employees, and whose consolidated turnover or turnover exceeds EUR 100m.
- ¹⁴ Measures will be taken into account by the prosecutors or AFA (French Anti-Corruption Agency) but the implemented compliance program must comply with the requirements set forth in Sapin II Law.

Germany

Source of law		
German Criminal Code		
Offence	Private Sector: s299 et seq. German Criminal Code (StGB) Where someone promises or grants the employees or agents of another company or a third party a financial or other benefit in return for (1) treating him or his company preferentially in relation to other competitors without an appropriate reason or (2) committing a breach of his duties towards his company. The same applies to employees or agents of a company who ask for or accept such benefits.	Public Sector: s331 et seq. StGB Where someone promises or grants a holder of office (i.e. any judge, civil servant or any person holding public office who performs public administration tasks at a public authority or other body) a benefit in order to convince him to perform an illegal act or act within his authority.
The bribe		
Is there a presumption that any advantage was given/received corruptly?	X (however, inappropriate or unusual benefits, as well as additional circumstantial evidence such as the position of the recipient or lack of other plausible explanations, may lead to preliminary investigation and finally conviction)	X (however, advantages given / received in connection with the exercise of office constitute a bribe (Sect. 331 et seq. StGB))
Would facilitation payments be caught?	✓	✓
Would corporate hospitality be caught?	✓ (depends on the intent and on whether the benefit offered is "socially adequate" i.e. a reasonable benefit which does not have the potential improperly to influence the decision)	✓ (depends on the intent; however, significantly lower threshold than in private sector)
Is there any <i>de minimis</i> ?	X ¹	X ²
Does the bribe have to be monetary?	X	X
Public officials		
Does the offence only apply to bribing public officials?	X	✓ ³
Acts performed outside Germany		
Can bribery performed outside of Germany be caught?	✓	✓
Does the act also need to be illegal in the foreign country of performance?	X	X
Who can be liable		
German National?	✓	✓
German company?	✓ ⁴	✓ ⁴
German partnership (including limited liability partnership)?	✓	✓
Director of German company?	✓ (if he is implicated in the act of bribery or in cases of neglect of corporate duty to avoid criminal acts)	✓ (if he is implicated in the act of bribery or in cases of neglect of corporate duty to avoid criminal acts)
German company if the bribe is committed abroad by its foreign subsidiary?	✓ ⁵	✓ ⁵
Foreign subsidiary of a company incorporated in Germany if the bribe is committed abroad?	X	X
Foreign national / company / partnership if bribe is committed in Germany?	Foreign national: ✓ Foreign company or partnership: ✓ ⁶	Foreign national: ✓ Foreign company or partnership: ✓ ⁶
Foreign national domiciled or "ordinarily resident" in Germany if bribe is committed outside Germany?	✓ (if caught within Germany and not subject to extradition)	✓ (if caught within Germany and not subject to extradition)
Foreign company / partnership if bribe is committed abroad?	X	X
Penalties		
Penalties include:	Individuals <ul style="list-style-type: none"> — Fines and / or imprisonment (up to five years) in case of conviction. An occupational ban may also be imposed on wrongdoers — Directors, board members and officers: fines (up to EUR 1m) in case of insufficient organisation, instruction and supervision Companies <ul style="list-style-type: none"> — Fines (in principle up to EUR 10m – fine may be higher if benefit derived from bribery exceeds EUR 10m – this is the exception rather than the rule) — Debarment of companies from tendering for public contracts — Confiscation of benefits derived from bribery 	Individuals <ul style="list-style-type: none"> — Fines and / or imprisonment (up to five years) in case of conviction. An occupational ban may also be imposed on wrongdoers — Directors, board members and officers: fines (up to EUR 1m) in case of insufficient organisation, instruction and supervision Companies <ul style="list-style-type: none"> — Fines (in principle up to EUR 10m – fine may be higher if benefit derived from bribery exceeds EUR 10m – this is the exception rather than the rule) — Debarment of companies from tendering for public contracts — Confiscation of benefits derived from bribery
Defences		
Are there any defences available?	X	X

¹ Low-value gifts are not subject to criminal prosecution. Generally, in the private sector occasional gifts and usual invitations with a total value of EUR 35 - 60 are considered as adequate.

² Low-value gifts are not subject to criminal prosecution. In the public sector occasional small gifts with a total value of EUR 5 are considered as adequate.

³ Employees, officers or directors of privately operated companies who perform public functions may also be considered as public officials.

⁴ Even though legal entities are not subject to criminal prosecution in Germany they can be ordered to pay substantial fines; confiscation of benefits derived from bribery.

⁵ Depending on the individual circumstances, as in footnote 4.

⁶ As in footnote 4.

Hungary

Sources of law	Act CLXV of 2013 on Complaints and Public Interest Disclosure (Hungarian Whistleblowing Act).	Act CLXV of 2013 on Complaints and Public Interest Disclosure (Hungarian Whistleblowing Act).
Offence ¹	Public Bribery (s293-294 of the Criminal Code) Active Public Bribery Giving or promising an unlawful advantage to a Hungarian or foreign public official or to a third party to influence the relevant official's actions in his / her official capacity. Passive Public Bribery Requesting an unlawful advantage in the Hungarian or foreign official's official capacity, or accepting such advantage or a promise thereof, or agreeing with the party requesting or accepting the advantage.	Private Bribery (s290-292 of the Criminal code) Active Public Bribery Giving or promising an unlawful advantage to a person acting for a Hungarian or foreign company to induce that person to breach his / her duties. Passive Public Bribery Requesting an unlawful advantage by a person acting for a Hungarian or foreign company, or accepting such advantage or a promise thereof, or agreeing with the party requesting or accepting the advantage.
The bribe		
Is there a presumption that any advantage was given/received corruptly?	X	X
Would facilitation payments be caught?	✓	✓
Would corporate hospitality be caught?	Depends on intent	Depends on intent
Is there any <i>de minimis</i> ?	X	X
Does the bribe have to be monetary?	X	X
Public officials		
Does the offence only apply to bribing public officials?	✓	X
Acts performed outside Hungary		
Can bribery performed outside Hungary be caught?	✓ ²	✓
Does the act also need to be illegal in the foreign country of performance?	X (unless committed by a foreign national)	X (unless committed by a foreign national)
Who can be liable		
Hungarian National?	✓	✓
Hungarian company?	✓ ³	✓
Hungarian partnership (including limited liability partnership)?	✓	✓
Director of Hungarian company?	✓ ⁴	✓ (if implicated in the actual bribery)
Hungarian company if the bribe is committed abroad by its foreign subsidiary?	✓ ⁵	✓
Foreign subsidiary of a company incorporated in Hungary if the bribe is committed abroad?	✓ ⁶	✓
Foreign national / company / partnership if bribe is committed in Hungary?	✓ ⁷	✓
Foreign national domiciled or "ordinarily resident" in Hungary if bribe is committed outside Hungary?	✓ ⁸	✓
Foreign company / partnership if bribe is committed abroad?	✓ ⁹	✓
Penalties		
Penalties include:	Individuals — Imprisonment up to five years in the case of active and up to ten years in the case of passive bribery (may vary depending on the nature and seriousness of the crime) Companies (if applicable) — Termination — Restriction of operation (one – three years), including debarment from public contracts or state subsidies — Fine: up to three times the pecuniary advantage gained or intended to be gained from the crime — Confiscation order	Individuals — Imprisonment up to eight years in the case of active and up to ten years in the case of passive bribery (may vary depending on the nature and seriousness of the crime) Companies (if applicable) — Termination — Restriction of operation (one – three years), including debarment from public contracts or state subsidies — Fine: up to three times the pecuniary advantage gained or intended to be gained from the crime — Confiscation order
Defences		
Are there any defences available?	✓ ¹⁰	✓ ¹¹

- ¹ There are also special offences relating to bribery in judicial proceedings and influence peddling. In addition, it is also an offence if a public official fails to report bribery of any kind which he / she is aware of.
- ² Bribery performed outside Hungary is illegal under the Criminal Code if the following conditions are met: the bribery is committed (1) by a Hungarian national, or (2) on a Hungarian ship or aircraft, or (3) by a foreign national and the act is also illegal in the foreign country of performance (to be assessed by the Hungarian General Attorney) (S3 of the Criminal Code).
- ³ Companies cannot be legally “liable” for a crime but certain criminal sanctions can be imposed on them under the following circumstances: (1) the crime is committed by the relevant natural person intentionally, (2) the crime targeted or resulted in an advantage in favour of the company, and the crime is committed by (3) a director, authorised representative, employee, officer, supervisory board member, manager, or a proxy of the above, as part of the activity of the company, or (4) a member or employee of the company, whose action the director, manager or supervisory board member could have hindered by exercising his / her duties. Sanctions can also be imposed if the crime resulted in an advantage for the company and the director, representative, manager or supervisory board member was aware of the crime. (S2 of the Corporate Sanctions Act).
- ⁴ The director of a company, or a member or employee with authority to exercise control or supervision is also liable for public bribery if another member or employee of the company commits (domestic or foreign) public bribery for the benefit of the company and the bribery could have been prevented had the director properly fulfilled his / her control or supervisory obligations. Negligent acts are also punished.
- ⁵ Companies cannot be legally “liable” but certain criminal sanctions can be imposed on them, as outlined in footnote 3. If the bribe is committed abroad by a foreign subsidiary, criminal sanctions may be imposed on the Hungarian parent company if the act fell within the scope of its activity, although this has not yet been tested in practice. In addition, the conditions set out in the Criminal Code must also be met.
- ⁶ A foreign subsidiary of a Hungarian company can be liable in Hungary only if the bribe which is committed abroad is also illegal in the foreign country concerned – to be assessed by the Hungarian General Attorney. See also footnotes 5 and 7.
- ⁷ Foreign companies and partnerships may be sanctioned in accordance with the Corporate Sanctions Act because its scope does not differentiate between domestic and foreign companies and partnerships. However, such application of the Corporate Sanctions Act has not yet been tested in practice. Enforceability issues may also arise.
- ⁸ A foreign national domiciled or “ordinarily resident” in Hungary can be liable only if the bribe which is committed outside Hungary is also illegal in the foreign country concerned – to be assessed by the Hungarian General Attorney.
- ⁹ A foreign company / partnership can be liable in Hungary only if the bribe which is committed abroad is also illegal in the foreign country concerned – to be assessed by the Hungarian General Attorney. See also footnotes 5 and 7.
- ¹⁰ Before the bribe is detected, a person’s penalty may be alleviated without limits or in some cases the liability may be avoided by providing the authorities with information regarding the bribe and (in case of passive bribery) by surrendering the unlawfully obtained advantage to the authorities.
- ¹¹ See footnote 10.

Italy

Source of law	Italian Criminal Code (s318 et seq. and s346 bis ¹)
Offence	<p>Bribery/Incitement to bribery</p> <p>Active bribery: Briber/Instigator Giving or promising money or other benefits to a public official or to a person in charge of a public service⁴ for the performance of a function⁵ or for performing (or for having performed) an act conflicting with his/her duties or in exchange for omitting or delaying (or for having omitted or delayed) an act within his/her duties⁶. In the case of “<i>Incitement to bribery</i>” by a private briber⁷, the conduct of the instigator is the same, but the public agent does not accept the offer or the promise of money or other utilities.</p> <p>Passive bribery: Recipient/Instigator (public agent) A public official or public service agent unduly receiving a reward for himself/herself or for a third party/or accepting a promise thereof, for: (i) the performance of a function, or (ii) omitting an act within his/her duties, or (iii) acting in breach of his/her duties. In the case of “<i>Incitement to bribery</i>” by a public agent⁸, even if the public official or the person in charge of a public service solicits such reward for himself/herself or for a third party, the person incited does not promise or give anything.</p> <p>Judicial bribery The offence set forth in s319 ter of the Italian Criminal Code punishes the conduct of a public agent who commits bribery in order to aid or damage a party within a civil, criminal or administrative proceeding.</p> <p>Undue trading of influence⁹ Unless the conduct involves the complicity in crimes under s318, s319, s319 ter and s322 bis of the Italian Criminal Code, anyone – taking advantage of or relying on his/her existing or alleged relationship with a public official/person in charge of a public service or any of the other subjects under s322 bis of the Italian Criminal Code – who unduly receives – for himself/herself or others – the promise or offer of undue money or other economic advantages as compensation in exchange for his/her unlawful mediation, or as compensation for the public agent in relation to the exercise of his duties or powers. The penalties are extended to persons who unlawfully give or promise money or other advantage. Penalties are increased in case of aggravating circumstances.</p> <p>Undue inducement to give or promise benefits¹⁰ The offence under s319 quarter of the Italian Criminal Code punishes a public official abusing his or her title or powers by inducing a party to unduly give or promise to himself/herself or a third party money or other benefits. In such cases, the party that gives or promises the money or other benefits is also punished</p>
The bribe	
Is there a presumption that any advantage was given/received corruptly?	X
Would facilitation payments be caught?	Depends on intent
Would corporate hospitality be caught?	Depends on intent
Is there any <i>de minimis</i> ?	X ¹⁸
Does the bribe have to be monetary?	X
Public officials	
Does the offence only apply to bribing public officials?	X ²¹
Acts performed outside Italy	
Can bribery performed outside Italy be caught?	✓ ²²
Does the act also need to be illegal in the foreign country of performance?	X
Who can be liable	
Italian national?	✓
Italian company?	X
Italian partnership (including limited liability partnership)?	X
Director of Italian company?	✓
Italian company if the bribe is committed abroad by its foreign subsidiary?	X
Foreign subsidiary of an Italian company if the bribe is committed abroad?	X
Foreign national/company/partnership if bribe is committed in Italy?	✓
Foreign national domiciled or “ordinarily resident” in Italy if bribe is committed outside Italy?	✓ ²⁶
Foreign company/partnership if bribe is committed abroad?	X
Penalties	
Penalties include:	<ul style="list-style-type: none"> — Imprisonment for up to ten years ²⁸ (for judicial bribery imprisonment for up to 20 years) — Disqualifying penalties, both temporary and permanent ²⁹ if applicable — Confiscation ³⁰
Defences	
Are there any defences available?	✓ ³²

Italy (continued)

Source of law	Italian Civil Code (s2635 and 2635 bis) ²	Legislative Decree no 231/2001 (Decree 231) ³ (s25 and 25 ter)
Offence	<p>Private bribery/Incitement to private bribery</p> <p>Briber/Instigator Anyone (either in their own capacity or through a third person¹¹) offering¹², promising or giving, money or other benefits to an individual who – within the organisation of the company or private entity – exercises managing functions¹³ (not limited to the persons expressly referred to by law i.e. managers, general directors, directors responsible for the company's balance sheet), as well as to auditors, liquidators, and/or to anyone who is employed by them, so that they act or omit acts in breach of the duties relating to their office or duties of loyalty¹⁴. In the case of "Incitement to private bribery", anyone offering or promising, without success, money or other benefits to in-house persons for the same purpose.</p> <p>Recipient/Instigator All persons in the company and/or the private entity having managing functions¹⁵, as well as auditors, liquidators, and/or anyone who is employed by them, soliciting¹⁶, receiving or accepting the promise of such advantage. In the case of "Incitement to private bribery" by "in-house" persons: soliciting, without success, the promise or offer of such reward for themselves or on behalf of third parties; in order to act or omit acts in breach of the duties relating to their office or duties of loyalty.</p>	<p>Bribery under s25</p> <p>Briber A company can be held liable under the Decree 231 in cases where its executive/ representative or employee commits offences of bribery/undue trading of influence¹⁷/undue inducement to give or promise benefits in the interest of and/or for the advantage of the company.</p> <p>Private bribery/Incitement to private bribery under s25 ter</p> <p>Briber/Instigator A company can be held liable under Decree 231 in cases where its executive/ representative or employee, commits private bribery in the interest of and/or for the advantage of the company: this means that the company's liability is provided for by Decree only in cases where its executive/ representative or employee is the briber.</p>
The bribe		
Is there a presumption that any advantage was given/received corruptly?	X	X
Would facilitation payments be caught?	Depends on intent	Depends on intent
Would corporate hospitality be caught?	Depends on intent	Depends on intent
Is there any <i>de minimis</i> ?	X ¹⁹	X ²⁰
Does the bribe have to be monetary?	X	X
Public officials		
Does the offence only apply to bribing public officials?	X	X
Acts performed outside Italy		
Can bribery performed outside Italy be caught?	X ²³	X ²⁴
Does the act also need to be illegal in the foreign country of performance?	X	X
Who can be liable		
Italian national?	✓	✓
Italian company?	X	✓
Italian partnership (including limited liability partnership)?	X	✓ ²⁵
Director of Italian company?	✓	X
Italian company if the bribe is committed abroad by its foreign subsidiary?	X	✓
Foreign subsidiary of an Italian company if the bribe is committed abroad?	X	✓
Foreign national/company/partnership if bribe is committed in Italy?	✓	✓
Foreign national domiciled or "ordinarily resident" in Italy if bribe is committed outside Italy?	✓ ²⁷	X
Foreign company/partnership if bribe is committed abroad?	X	X
Penalties		
Penalties include:	<ul style="list-style-type: none"> — Imprisonment for up to three years — Disqualifying penalties, if applicable 	<ul style="list-style-type: none"> — Financial penalties applied in quotas ranging from EUR 258 to EUR 1,549 calculated on the basis of the company or organisation's economic and financial position, in order to ensure that the penalty is effective — Disqualifying penalties³¹, if applicable — Confiscation — Publication of the judgment, if applicable
Defences		
Are there any defences available?	✓ ³³	✓ ³⁴

- ¹ In 2019, the Italian anticorruption legal framework was amended by Law no. 3/2019 (the so-called "Bribe Destroyer Law"). The Bribe Destroyer Law established additional provisions to fight corruption, in line with the most relevant multilateral Conventions. The main amendments include more severe penalties and reinforcement of collateral sanctions (such as debarment from public contracts or employment). Inter alia, the new law extended the definition of foreign public officials to include persons performing functions or activities equivalent to those of public officials and employees of international public organisations.
- ² Law no.3/2019 provided for prosecution ex officio for offences of "Private bribery" and "Incitement of private bribery".
- ³ Legislative Decree no. 231/2001 provides for corporate liability – formally called "administrative" but which is, in fact, essentially criminal in nature – that may be established in connection with a specific listed offence (including bribery and private bribery) directly performed by the company's executives/representatives or employees in the interest of and/or for the advantage of the corporate.
- ⁴ Pursuant to s320 of the Italian Criminal Code the provisions set forth in s318 and 319 of the Code are also applicable in cases where the bribery involves a person in charge of a public service (e.g. public transport driver).
- ⁵ See s318 of the Italian Criminal Code.
- ⁶ See s319 of the Italian Criminal Code.
- ⁷ See s322, 1st and 2nd para, of the Italian Criminal Code.
- ⁸ See s322, 3rd and 4th para, of the Italian Criminal Code.
- ⁹ The offence is intended to punish conduct performed prior to, and independently from, the commission of corruption offences, as well as bribery through intermediaries Law no. 3/2019 amended the offence, including situations in which a potential intermediary claims to be able to exercise undue influence on a public official.
- ¹⁰ s319 quarter of the Italian Criminal Code was introduced by Law no. 190/2012. Previously, the behaviour of the public official was punished under s317 of the Italian Criminal Code, which provided for the offence of public extortion.
- ¹¹ Legislative Decree no. 38/2017 extended punishment to cases where the offence is committed through a third party.
- ¹² Compared to the offence's previous formulation, reference to the offer of benefits is a new addition to the behaviors that may lead to a bribery agreement.
- ¹³ The category of the so-called "in-house" persons has been widened by Legislative Decree no. 38/2017 to include persons within the organisation of the company or of the private entity that exercise management functions different from those pertaining to the persons expressly referred to by law.
- ¹⁴ Compared to the offence's previous formulation, it is no longer necessary for the company to have suffered detriment for the offence to be punished.
- ¹⁵ See footnote 11.
- ¹⁶ Compared to the offence's previous formulation, reference to the solicitation of benefits has been added to the behaviors that may lead to a bribery agreement.
- ¹⁷ Law no. 3/2019 introduced the offence of undue trading of influence among crimes relevant for triggering corporate criminal liability pursuant to Decree 231.
- ¹⁸ Low-value courtesy gifts, giveaways or invitations may in some cases be considered as "*acceptable because socially adequate*". However, in Italy (except in the public sector) there is no statutory threshold in relation to such behaviour. Acceptable behaviour is determined on a case-by-case basis.
- ¹⁹ See footnote 18.
- ²⁰ See footnote 18.
- ²¹ Under s321 of the Italian Criminal Code, the penalties set forth for bribery are applied to anyone who gives or promises rewards to public officials.
- ²² The provisions in respect of Italian jurisdiction over corruption-related offences committed abroad can be summarised as follows:
 - 1) citizens or aliens shall be punished according to Italian criminal law if they commit abroad an offence as public officials serving the State, with abuse of their powers or the violation of the duties of their office. This provision applies regardless if the citizen or alien is found within Italian territory (see s7 of the Italian Criminal Code);
 - 2) citizens or aliens who commit abroad a political offence (including bribery) can be prosecuted under Italian Criminal Law only upon the Ministry of Justice's request (see s8 of the Italian Criminal Code);
 - 3) citizens who commit abroad an offence punishable by imprisonment for a minimum of three years (including bribery) shall be punished according to Italian criminal law, provided that they are in the territory of the State (see s9, 1st para, of the Italian Criminal Code). The offender may be subject to Italian criminal law even where the relevant criminal offence is punishable with a lower term of imprisonment, but only upon the Ministry of Justice's or victim's request (see s9, 2nd para of the Italian Criminal Code). According to amendments set forth by Law no.3/2019, the Ministry of Justice's or victim's request is not necessary for the offences provided for in s320 (Bribery of persons in charge of a public service), 321 (Penalties applied to the briber) and 346-bis (Undue trading of influence) of the Italian Criminal Code (see s9, 4th para of the Italian Criminal Code);
 - 4) aliens who commit abroad a criminal offence shall be punished according to Italian criminal law (see s10 of the Italian Criminal Code) in the presence of certain circumstances listed by law (e.g. if under Italian law the relevant offence is punishable with imprisonment of not less than one year; if Italy or an Italian citizen were the victims of the crime; if the offender is located in Italy; and if either the victim of the crime or the Italian Ministry of Justice asked that the offender be prosecuted). According to amendments set forth by Law no.3/2019 the Ministry of Justice's or victim's request is not necessary where the committed offences are those provided for in s317 (Extortion by a public official), s318 (Bribery in the performance of a public office), s319 (Bribery involving a specific act in breach of official duties),s319-bis (Aggravating circumstances), s319-ter (Judicial bribery), s319-quarter (undue inducement to give or promise benefits), s320 (Bribery of persons in charge of a public service), s321(Penalties applied to the briber),s322 (Incitement to bribery) and s322-bis (Bribery of a foreign public official) of the Italian Criminal Code. Special rules are also set out to determine the cases in which Italian Law applies to offences committed abroad against the EU or a foreign State.
- ²³ The offender may be subject to Italian Criminal Law only upon the Ministry of Justice's or victim's request. (see s9, 2nd para of the Italian Criminal Code).
- ²⁴ If the company has its registered office in Italy, provided the company is not already involved in pending criminal proceedings abroad for the same facts. Furthermore, if the offence committed is punishable only on a request of the Ministry of Justice, the same request should expressly involve the company (see s4 of the Decree 231).
- ²⁵ Decree 231 applies to all legal entities, companies and associations, even those without any legal personality.
- ²⁶ See the provisions set forth in s7, 8 and 10 of the Italian Criminal Code (e.g. if the bribery is politically motivated).
- ²⁷ See the provisions set forth in s8 and 10 of the Italian Criminal Code.
- ²⁸ Law no. 3/2019 increased penalties for bribery for the exercise of a function under s318 of the Italian Criminal Code (punishable by imprisonment for three to eight years). Bribery for an act contrary to official duties under s319 of the Italian Criminal Code is punishable by imprisonment for six to ten years. In any event, pursuant to s321 of the Italian Criminal Code, the penalties are extended to anyone who gives money/advantage to a public official or public service agent. The offence of "*Undue trading of influence*" under s346 bis of the Italian Criminal Code is punishable by imprisonment for one to four years and six months.
- ²⁹ According to amendments set forth by Law no.3/2019, conviction for corruptive crimes entail the prohibition of holding public offices and the ban in dealing with public administration (permanently applied to the individuals convicted with more than two years).
- ³⁰ Under s322 ter of the Italian Criminal Code confiscation shall always be ordered for anything representing the price or the proceeds thereof, unless they belong to a person who has not committed the offence; if said confiscation is not possible, the confiscation of anything which the offender has at his disposal shall be ordered for the corresponding value.
- ³¹ Under s13 of the Decree 231 disqualifying penalties are applied solely for specific offences if: (i) the company derived a sizable profit from the offence; or (ii) the offence was committed by its executive/representative and was repeated. Disqualifying penalties are: debarment of the company from carrying out business; suspension or withdrawal of authorisations, licences, or concessions that are related to the commission of the unlawful conduct; prohibition against the company contracting with the Public Administration; exclusion of facilities, financing, contributions or subsidies, and (if applicable) revocation of those already granted; prohibition on advertising the company's goods or services.
- ³² For individuals, defences depend on a case-by-case basis. In any event, in Italy the liability of the defendant (who enjoys a presumption of innocence) shall be demonstrated by the Public Prosecutor. A special non-punishment clause will be applied to individuals who commit bribery offences if they voluntarily disclose the facts before becoming aware of their involvement in an investigation being carried out within four months from the commission of the crime. In such circumstances, the individual must also provide useful and concrete information to facilitate evidence-gathering activities and identify other offenders (see s323 ter of the Italian Criminal Code, introduced by Law no. 3/2019).
- ³³ Defences depend on a case-by-case basis.
- ³⁴ The company can avoid liability, as provided for by Decree 231, by adopting and effectively enforcing an organisational, management and control model (the "Model") suitable for preventing the commission of crimes and appointing a Supervisory Body (the "Organismo di Vigilanza") with the duty to control the correct implementation of the Model. The Model, which should be adapted to the nature of a given business, must provide procedures to ensure that business activities comply with the law, and that company officers are alert to situations which increase the risk of bribery and promptly remove them when they are identified.

Luxembourg

Source of law	Criminal Code	
Offence	<p>Active Public Bribery (Criminal Code, Article 247 and, especially towards judges, Article 250 paragraph 2) Directly or indirectly offering or giving to a person, depositary or agent of the public authority or of the public force, or entrusted with a public service mission, or vested with a public elective mandate, directly or indirectly, offers, promises, gifts, presents or gives an advantage of any kind, for himself or for a third party, or to make the offer or promise thereof, in order to obtain:</p> <ul style="list-style-type: none"> — that he/she performs or refrains from performing an act of his/her function, mission or mandate or facilitated by their function, mission or mandate; — that he/she abuses their real or supposed influence with a view to obtaining distinctions, jobs, contracts or any other favourable decision from an authority or public administration. <p>Passive Public Bribery (Criminal Code, Article 246 and, especially towards judges, Article 250 paragraph 1) The act by a person, depositary or agent of public authority or of public force, or a person entrusted with a public service mission, or vested with a public elective mandate, of soliciting or receiving directly or indirectly, for himself or herself or for others, offers, promises, gifts, presents or gives an advantage of any kind or accepting the offer or promise thereof to the above-mentioned purposes.</p> <p>A posteriori Corruption (Criminal Code, Article 249) The circumstances in which a person performing a public service is compensated, passively or actively, by the beneficiary of an act performed or refrained from performing subsequent to that action or this abstention.</p> <p>Influence peddling (Criminal Code, Article 248) The specificity of this offence lies in the fact that the concerned person, actively or passively, abuses their status in order to obtain a favourable decision from a depositary or an agent of public authority or of public force, or from a person entrusted with a public service mission, or vested with a public elective mandate.</p>	
The bribe		
Is there a presumption that any advantage was given/received corruptly?		X
Would facilitation payments be caught?		✓
Would corporate hospitality be caught?		✓
Is there any <i>de minimis</i> ?		X
Does the bribe have to be monetary?		X
Public officials		
Does the offence only apply to bribing public officials?		✓ Except for influence peddling
Acts performed outside your jurisdiction		
Can bribery performed outside Luxembourg be caught?		✓
Does the act also need to be illegal in the foreign country of performance?		X
Who can be liable		
Luxembourg national?		✓
Luxembourg company?		✓
Luxembourg partnership (including limited liability partnership)?		✓
Director of Luxembourg company?		✓ (either directly or if the director consented or connived in an offence committed by the company)
Luxembourg company if the bribe is committed abroad by its foreign subsidiary?		✓
Foreign subsidiary of a Luxembourg company if the bribe is committed abroad?		✓
Foreign national/company/partnership if the bribe is committed in Luxembourg?		✓
Foreign national domiciled or "ordinarily resident" in Luxembourg if the bribe is committed outside Luxembourg?		✓
Foreign company/partnership if the bribe is committed abroad?		X
Penalties		
Penalties include:	<p>Recipient</p> <ul style="list-style-type: none"> — Fine of up to EUR 187,500 / EUR 250,000 for judges / EUR 125,000 in case of influence peddling — Imprisonment of up to ten years / five years in case of influence peddling — Professional restrictions 	<p>Companies</p> <ul style="list-style-type: none"> — Fine of up to EUR 750,000 / EUR 3.75m in certain circumstances — Imprisonment (for Director) of up to ten years / five years in case of influence peddling — Confiscation and/or debarment from tendering for public contracts and/or judicial liquidation — Dissolution in case of diversion from the corporate object
Defences		
Are there any defences available?	X (However, public employees/agents who prove that they acted according to their supervisor's instructions for matters requiring hierarchical obedience, will be exempt from the penalty and the said supervisor would be charged with the offence instead (Criminal Code, Article 260))	

Source of law		<p>Corruption and Traffic of Influence: Articles 113 to 122-2 of the Monaco Criminal Code (Law n° 1.394 of 9 October 2012 as modified by Law n°1.462 of 28 June 2018)</p> <p>Corruption in the context of transnational organized crime: Article 6 of Sovereign Order n° 605 of 1 August 2006 as modified by Sovereign Order n° 4.440 of 6 August 2013</p> <p>Judicial Services Officials: Regulation n° 2013-17 of 12 July 2013</p>
Offence		<p>Passive Bribery – Being Bribed (Article 113-2, § 1 of the Monaco Criminal Code)</p> <p>Where a public or private ¹ official solicits or an arbitrator, accepts or receives, directly or indirectly, any undue advantage ² to himself or others, or accepts the offer or promise ³ of such an advantage, to perform or refrain from performing or to have performed or refrained from performing an action related to or facilitated by his function.</p> <p>Active Bribery – Bribing (Article 113-2, § 2 of the Monaco Criminal Code)</p> <p>Anyone who proposes or grants, directly or indirectly, any undue advantage, for himself or for others, in order to obtain from a natural or legal person that it performs or refrains from performing an act of his function or facilitated by his function or for having performed or refrained from performing an action related to or facilitated by his function.</p>
Passive Traffic of Influence (Article 113-3, § 1 of the Monaco Criminal Code)		<p>Where a public or private official solicits, accepts or receives, directly or indirectly, any undue advantage to himself or others, or accepts the offer or promise ³ of such an advantage, to abuse or misuse its actual or alleged influence over the decision-making of a public official as regards distinctions, jobs, contracts or any other favourable or unfavourable decision.</p> <p>Active Traffic of influence (Article 113-3, § 2 of the Monaco Criminal Code)</p> <p>Anyone who proposes or grants, directly or indirectly, any undue advantage, for himself or for others, in order to obtain from a natural or legal person that it abuses or for having abused its actual or alleged influence over the decision-making of a public official as regards distinctions, jobs, contracts or any other favourable or unfavourable decision.</p>
The bribe		
Is there a presumption that any advantage was given/received corruptly?	X	X
Would facilitation payments be caught?	✓	✓
Would corporate hospitality be caught?	Depends on the intent ⁴	Depends on the intent ⁴
Is there any <i>de minimis</i> ?	X	X
Does the bribe have to be monetary?	X	X
Public officials		
Does the offence only apply to bribing public officials?	X	X
Acts performed outside of Monaco		
Can bribery performed outside of Monaco be caught?	✓	✓
Does the act also need to be illegal in the foreign country of performance?	Depends ⁵	Depends ⁵
Who can be liable		
Monegasque national?	✓	✓
Monegasque company?	✓	✓
Monegasque partnership (including limited liability partnership)?	✓	✓
Director of a Monegasque company?	✓ ⁶	✓ ⁶
Monegasque company if the bribe is committed abroad by its foreign subsidiary?	✓ ⁷	✓ ⁷
Foreign subsidiary of a Monegasque company if the bribe is committed abroad?	✓ ⁸	✓ ⁸
Foreign national / company / partnership if bribe is committed in Monaco?	✓	✓
Foreign national domiciled or “ordinarily resident” in Monaco if bribe is committed outside Monaco?	✓ ⁹	✓ ⁹
Foreign company / partnership if bribe is committed abroad?	X ¹⁰	X ¹⁰
Penalties		
Penalties include:	<p>Bribery</p> <p><i>Corruption involving a private official:</i></p> <ul style="list-style-type: none"> — Imprisonment between one and five years — Fine ranging from EUR 18,000 to EUR 90,000 <p><i>Corruption involving a domestic, foreign or international public official:</i></p> <ul style="list-style-type: none"> — Imprisonment between five and ten years — Fine ranging between EUR 36,000 and EUR 180,000 <p><i>Passive corruption involving a magistrate or juror:</i></p> <ul style="list-style-type: none"> — Imprisonment between eight and 15 years — Fine ranging between EUR 54,000 to EUR 270,000 <p><i>Corruption in the context of organized crime:</i></p> <ul style="list-style-type: none"> — Imprisonment between ten and 20 years — Fine ranging between EUR 18,000 and EUR 900,000 	<p>Traffic of Influence</p> <p><i>Traffic of influence involving a domestic, foreign or international public official or a private official:</i></p> <ul style="list-style-type: none"> — Imprisonment between five and ten years — Fine ranging from EUR 36,000 to EUR 180,000 <p><i>Passive traffic of influence involving a magistrate or juror:</i></p> <ul style="list-style-type: none"> — Imprisonment between eight and 15 years — Fine ranging between EUR 54,000 and EUR 270,000 <p><i>Traffic of influence in the context of organized crime:</i></p> <ul style="list-style-type: none"> — Imprisonment between ten and 20 years — Fine ranging between EUR 18,000 and EUR 900,000

Monaco (continued)

Penalties		
	<p>Laundering of proceeds resulting from bribery / traffic of influence:</p> <ul style="list-style-type: none">— Imprisonment between five and ten years— Fine ranging between EUR 18,000 and EUR 1.35m depending on the type of bribery / traffic of influence offence committed <p>Additional penalties:</p> <ul style="list-style-type: none">— Prohibition of civic, civil and family rights may be ordered for a period ranging between five and ten years— Any public official involved in a bribery / traffic of influence offence will be deprived, definitively or temporarily (between five and ten years), of the right to occupy a public function, an elective or jurisdictional function— Confiscation of the proceeds obtained through the bribery / traffic of influence offence <p>Possible penalties applicable to companies involved in the commission of the offence¹:</p> <ul style="list-style-type: none">— Fines ranging between EUR 18,000 and EUR 900,000, depending on the offence committed— The judicial winding up of the company, where the offender was incorporated for the sole purpose of committing bribery / traffic of influence or that it was diverted from its corporate purpose for committing bribery / traffic of influence— Temporary (up to five years) or definitive prohibition to exercise the activities through which the offence was committed— Temporary (up to five years) placement under judicial supervision— Closure of the company's branches through which the offence was committed— Temporary (up to five years) or definitive exclusion from tendering for public procurement contracts— Temporary (up to five years) prohibition to use cheques and / or credit cards— Temporary (up to five years) or definitive prohibition from making public offerings— Confiscation of the proceeds of the offence as well as of any asset acquired with such proceeds— Publication of the offence through various means of communication, for a period of up to three months	
Defences		
Are there any defences available?	X ¹²	X ¹²

- ¹ A private official is deemed to be a director or an employee holding a management position within a company performing a purely commercial activity, or an independent worker performing missions for such a company. This definition excludes professions such as lawyers, for instance (Clarifications issued as part of the Public Debate of the Monaco National Council of 8 October 2012), although such professionals' liability can be caught in the event that they breach their professional duties by contributing to the laundering of the proceeds of a bribery / traffic of influence offence (Article 218-2 of the Monaco Criminal Code).
- ² The concept of undue advantages does not include the advantages permitted by the law or by administrative rules (for instance, ordinary gifts given out of courtesy or hospitality to Monaco judges for traditional events), as well as gifts of very low value or socially acceptable gifts.
- ³ Passive bribery and passive traffic of influence also cover the acceptance of an offer or promise of an undue advantage, as well as situations in which the influence does not lead to the intended result (Clarifications issued as part of the Public Debate of the Monaco National Council of 8 October 2012).
- ⁴ Corporate hospitality could be caught if it is established that it was offered for the purpose of inducing a public or private official to act contrary to his duty in order to obtain improper benefits from the public or private official who is being hosted. This would have to be examined on a case-by-case basis, as under Monaco law, there cannot be any offence without the intent to commit it, except where the law provides otherwise (Article 4-2 of the Monaco Criminal Code). In regard to traffic of influence, the intentional element can be deduced from objective factual circumstances (Article 113-4 of the Monaco Criminal Code).
- ⁵ If the acts are performed outside Monaco, the triggering of Monaco jurisdiction requires dual criminal liability, the prior authorisation of the Monaco General Prosecutor as well as a complaint from the injured party or an official report from the foreign authorities to the Monaco authorities, except where:
 - the offence is punishable by five or more years of imprisonment or
 - where the offender is a Monaco judge, prosecutor, or juror, or
 - where the offender is, regardless of his nationality, a Monaco public agent meaning a person holding public authority, or entrusted with a public service mission, or invested with a public elective mandate in Monaco,
 in which case the abovementioned conditions are not applicable (Articles 5, 6 and 6-2 of the Monaco Code of Criminal Procedure).
- ⁶ The involvement of a director would depend on his intent to commit bribery/traffic of influence through the management position he holds in the company.
- ⁷ Liability will have been triggered because the improper benefit resulting from the bribe would have been obtained "indirectly" by the Monaco parent company, under Articles 113-2 and 133-3 of the Monaco Criminal Code.
- ⁸ Where the Monaco parent company is sentenced as the main offender and the foreign subsidiary as an accomplice.
- ⁹ Applicable to foreign residents who have not already been sentenced by the country where the offence was committed, and who either (Articles 7 to 10 of the Monaco Code of Criminal Procedure):
 - (1) were accomplices of a Monaco national who committed a bribery / traffic of influence offence abroad and was sentenced for such an offence in Monaco;
 - (2) acted in Monaco as accomplices of a bribery / traffic of influence offence recognized both in Monaco and in the country where it was committed and sanctioned by a final decision in the said country;
 - (3) committed a bribery / traffic of influence offence abroad that caused damage to a Monaco national or were found in Monaco in possession of assets acquired from the proceeds of the offence, subject to the above conditions (note 5) and required by Article 6 of the Monaco Code of Criminal Procedure.
- ¹⁰ The foreign company / partnership could however be prosecuted where it acts as an accomplice to a bribery / traffic of influence offence committed by a Monaco company / partnership.
- ¹¹ Such companies are criminally liable as offenders or accomplices, when the offence is committed in their name by one of their directors / legal representatives (Article 4-4 of the Monaco Code of Criminal Procedure and Articles 29-1 to 29-8 of the Monaco Criminal Code).
- ¹² In the context of transnational organised crime, a private or public official participating or having participated in an organised crime group may benefit from immunity from prosecution in the event he provides information required that prevents the offence or that leads to the arrest of the other group members, or the reduction of his sentence (up to 50%) in the event he provides information that prevents the offence or that leads to the identification and arrest of the other group members (Article 22 of Sovereign Order n° 605 of 1 August 2006).

Montenegro

Source of law	<p>Criminal Code (Official Gazette of Montenegro Nos. 70/2003, 13/2004, 47/2006, 40/2008, 25/2010, 32/2011, 64/2011, 40/2012, 56/2013, 14/2015, 42/2015, 58/2015 and 44/2017, 49/2018 and 3/2020)</p> <p>Law on Criminal Liability of Legal Entities (Official Gazette of Montenegro No.002/07, 013/07, 073/10, 030/12, 039/16)</p> <p>Law on the confiscation of property arising from the criminal act (Official Gazette of Montenegro No. 58/2015)</p> <p>Law on prevention of corruption (Official Gazette of Montenegro Nos. 53/2014 and 42/2017)</p>
Offence	<p>Giving a bribe in business activities Offering, promising or giving a bribe (or intermediating in those actions) during a business activity in order to favour the briber or someone else by or when making or performing a deal or rendering services, to the detriment of an entity the recipient represents or works for.</p> <p>Accepting a bribe in business activities Demanding or accepting a bribe (or the offer or promise of a bribe), or intermediating in those actions, during a business activity in order to favour someone by or when making or performing a deal or rendering services, to the detriment of an entity they represent or work for.</p> <p>Giving a bribe Offering, promising or giving a bribe (or intermediating in those actions) to an official¹ or responsible person in the company² in order for them to (within or outside their powers) perform / not perform an action which should not / should be performed.</p> <p>Accepting a bribe Demanding or accepting a bribe or the offer or promise of a bribe by an official or responsible person for themselves or someone else, in order for them to (within or outside their powers) perform / not perform an action which should not / should be performed, as well as demanding or accepting a bribe after performing / not performing such action.</p> <p>Trading in influence Requesting or receiving a gift or any other benefit for himself or another, directly or through a third party, to use his official or social position or actual or presumed influence, to mediate, to perform or not to perform an official action. Promising, offering or giving a gift or some other benefit to another through the use of his official or social position or actual or presumed influence to mediate the performance or non-performance of an official action.</p>
The bribe	
Is there a presumption that any advantage was given/received corruptly?	X
Would facilitation payments be caught?	✓
Would corporate hospitality be caught?	✓
Is there any <i>de minimis</i> ?	(i.e. if the degree of guilt is low, if there are no harmful consequences and / or if the offence is minor and imposing a penalty would not be in line with public policy)
Does the bribe have to be monetary?	X
Public officials	
Does the offence only apply to bribing public officials?	X
Acts performed outside Montenegro	
Can bribery performed outside Montenegro be caught?	X
Does the act also need to be illegal in the foreign country of performance?	✓
Who can be liable	
Montenegrin national?	✓
Montenegrin company	✓
Montenegrin partnership (including limited liability partnership)?	✓
Director of Montenegrin company	✓
Montenegrin company if the bribe is committed abroad by its foreign subsidiary?	✓
Foreign subsidiary of a Montenegrin company if the bribe is committed abroad?	✓
Foreign national / company / partnership if bribe is committed in Montenegro?	✓
Foreign national domiciled or "ordinarily resident" in Montenegro if bribe is committed outside Montenegro?	✓
Foreign company / partnership if bribe is committed abroad?	X
Penalties	
Penalties include:	<p>Individuals</p> <ul style="list-style-type: none"> — Imprisonment of up to 15 years (aggregated, together with different modalities of the offence) — Seizure of the given award, gift or other property benefit — Punishment may be remitted if a person committed the criminal offence based on a request and reports the criminal offence. <p>Companies</p> <ul style="list-style-type: none"> — Fines (not higher than EUR 5m) — Confiscation — Winding-up
Defences	
Are there any defences available?	✓ ³

¹ Article 424 of the Criminal Code of Montenegro.

² Article 276b of the Criminal Code of Montenegro.

³ An individual may be cleared of charges if after committing the act of bribery (giving a gift or other benefit under the order of responsible person or other person in the legal entity) he/she reports the bribe before it has been detected.



The Netherlands

Sources of law	Article 177 Criminal Code	Article 363 Criminal Code	Article 328ter par 2 Criminal Code	Article 328ter par 1 Criminal Code
Offence	Bribing a public official To offer, promise or give a benefit to a public official with the purpose of inducing the official to act or fail to act in his / her official duties.	Accepting bribes as a public official To request or accept a gift or a promise of a benefit as a public official, knowing or reasonably suspecting that such an advantage is given to obtain an act or omission by him / her in his / her official duties.	Bribing a non-public official To offer, promise or give a benefit to an employee, agent or another, in relation to an act or omission in his / her employment or mandate, under circumstances that must lead the offeror to believe that the recipient is acting in contravention of his / her duties.	Accepting bribes as a non-public official To request or accept a gift or a promise of a benefit in relation to an act or omission by him / her in contravention of his / her duties in the service of an employer or in the exercise of a mandate.
The bribe				
Is there a presumption that any advantage was given/received corruptly?	X	X	X	X
Would facilitation payments be caught?	✓	✓	✓	✓
Would corporate hospitality be caught?	✓ depends on intent	✓ depends on intent	✓	✓
Is there any <i>de minimis</i> ?	X	X	X	X
Does the bribe have to be monetary?	X	X	X	X
Public officials				
Does the offence only apply to bribing public officials?	✓	✓	X	X
Acts performed outside the Netherlands				
Can bribery performed outside the Netherlands be caught?	✓	✓	✓	✓
Does the act also need to be illegal in the foreign country of performance?	✓	X	✓	✓
Who can be liable				
Dutch national?	✓	✓	✓	✓
Dutch company incorporated?	✓	X	✓	✓
Dutch partnership (including limited liability partnership)?	✓	X	✓	✓
Director of Dutch company?	✓	X	✓	✓
Dutch company if the bribe is committed abroad by its foreign subsidiary?	✓	X	✓	✓
Foreign subsidiary of a Dutch company if the bribe is committed abroad?	✓	X	✓	✓
Foreign national / company / partnership if bribe is committed in the Netherlands?	✓	X	✓	✓
Foreign national domiciled or "ordinarily resident" in the Netherlands if bribe is committed outside the Netherlands?	✓	X	✓	✓
Foreign company / partnership if bribe is committed abroad?	✓	X	X	X
Penalties				
Penalties include:	<ul style="list-style-type: none"> — Imprisonment of up to six years — A fine up to EUR 87,000 for natural persons — A fine up to EUR 870,000 for companies or a fine of up to 10% of the revenue of the company. The fine related to the revenue is calculated based on the revenue over the financial year prior to the year of the crime (whether and to what extent this is applicable depends on the severity of the crime) — Disqualification from practising the profession in which the person committed the crime — Deprivation of certain rights 	<ul style="list-style-type: none"> — Imprisonment of up to six years (or eight years in limited circumstances) — A fine up to EUR 87,000 — Disqualification from practising the profession in which the person committed the crime — Deprivation of certain rights 	<ul style="list-style-type: none"> — Imprisonment of up to four years — A fine up to EUR 87,000 for natural persons — A fine up to EUR 870,000 for companies or a fine of up to 10% of the revenue of the company. The fine related to the revenue is calculated based on the revenue over the financial year prior to the year of the crime (whether and to what extent this is applicable depends on the severity of the crime) — Disqualification from practising the profession in which the person committed the crime 	<ul style="list-style-type: none"> — Imprisonment of up to four years — A fine up to EUR 87,000 for natural persons — A fine up to EUR 870,000 for companies or a fine of up to 10% of the revenue of the company. The fine related to the revenue is calculated based on the revenue over the financial year prior to the year of the crime (whether and to what extent this is applicable depends on the severity of the crime) — Disqualification from practising the profession in which the person committed the crime
Defences				
Are there any defences available?	X	X	X	X

Poland

Source of law		The Criminal Code¹ The Act on Liability of Organisational Entities for Acts Forbidden by Law, 28 October 2002
Offence		Corruption (public sector offence) Giving or promising to provide a financial or other benefit to a person performing public functions in connection with those functions; receiving a financial or personal benefit of the promise of such benefit by a person performing public functions in connection with those functions. Corruption (private sector offence) Demanding or accepting a financial or personal benefit or the promise of such benefit in connection with performing managerial functions for an abuse of that person's powers or negligence of duties, which could result in a loss, an act of unfair competition or preferential treatment.
The bribe		
Is there a presumption that any advantage was given/received corruptly?		X
Would facilitation payments be caught?		✓
Would corporate hospitality be caught?		✓
Is there any <i>de minimis</i> ?		X
Does the bribe have to be monetary?		X
Public officials		
Does the offence only apply to bribing public officials?		X
Acts performed outside Poland		
Can bribery performed outside Poland be caught?		✓
Does the act also need to be illegal in the foreign country of performance?		✓ ²
Who can be liable		
Polish national?		✓
Polish company?		✓
Polish partnership (including limited liability partnership)?		✓
Director of Polish company?		✓
Polish company if the bribe is committed abroad by its foreign subsidiary?		✓ ³
Foreign subsidiary of a Polish company if the bribe is committed abroad?		X
Foreign national / company / partnership if bribe is committed in Poland?		✓
Foreign national domiciled or "ordinarily resident" in Poland if the bribe is committed outside Poland?		✓ ⁴
Foreign company / partnership if bribe is committed abroad?		X
Penalties		
Penalties include:		Individuals — Imprisonment of up to 12 years and / or fines of up to PLN 1.08m (approx. EUR 250,000) Companies — Fines of up to PLN 5m (approx. EUR 1.14m), in some cases these are dependent on a person acting on behalf of the corporate having been convicted of an offence
Defences		
Are there any defences available?		✓ (Informing a prosecution body and revealing all details about the offence before it is detected or if the benefit is permitted under other legal provisions (such as pharmaceutical law))

¹ Separate special corruption offences apply in respect of bribery in the healthcare and pharmaceutical sectors. These apply both to bribery of public officials and private persons and companies.

² Not if a Polish public official committed a crime in a foreign jurisdiction when performing his public functions nor if a bribe is directed at a Polish office or public official.

³ Generally, the offence in question must also constitute an offence in the country in which it was committed, however, this is not always required. For example, irrespective of the local criminal provisions, the bribing of a Polish public official, committing a crime against Polish material public interests, or cases where the perpetrator makes an economic gain (whether directly or indirectly) in Poland will always attract liability in Poland.

⁴ See footnote 3.

Portugal

Source of law	Criminal Code	Law no. 20/2008, of April 21
Offence	<p>Unlawfully receiving an advantage:</p> <ul style="list-style-type: none"> — It is a crime for an official (in the exercise of his functions or because of them), to solicit or accept, by himself or through an intermediary, with its consent or ratification, for himself or for a third party, an undue advantage. — To offer or promise, individually or through an intermediary with its consent or ratification, any undue advantage to an official or to a third person (by indication or knowledge of an official), during the course of its functions or because of those functions – with exception to offers that are socially adequate. <p>Passive corruption</p> <p>It is an offence for an official, by himself or through an intermediary, with his consent or ratification, to solicit or accept, for himself or for a third party, an advantage, or its promise, in order to act or fail to act in a way that violates the duties of the office, even if committed prior to such solicitation or acceptance.</p> <p>Active corruption</p> <p>It is an offence to give or promise to an official, directly or through an intermediary, with his consent or ratification, an advantage for the purposes referred to in the crime of passive corruption. The mere attempt is punishable.</p>	<p>Active corruption in damage of international commerce:</p> <p>To give or promise to give to an official, (whether national, foreign or from an international organisation) or to a holder of political office (national or foreign) or to a third person if any of the above mentioned persons knows of this offer or promise, an undue advantage, in order to obtain or retain a business, a contract or any undue advantage in international commerce.</p> <p>Passive corruption in the private sector</p> <p>A private sector employee or agent, who, by himself or through an intermediary, with his consent or ratification, accepts, for himself or for a third party, undue financial or non-material advantage, or its promise, in order to act or fail to act in a way that violates its functional duties.</p> <p>Active corruption in the private sector</p> <p>To give or promise to a private sector employee or agent, by oneself or through an intermediary with its consent or ratification, or to a third party with the knowledge of the employee or agent of such a gift or promise, an undue advantage in order to induce an action or an omission from that employee or agent in violation of its functional duties. The mere attempt is punishable.</p>
The bribe		
Is there a presumption that any advantage was given/received corruptly?	X	X
Would facilitation payments be caught?	Depends on intent	Depends on intent
Would corporate hospitality be caught?	Depends on intent ¹	Depends on intent
Is there any <i>de minimis</i> ?	X ²	X ²
Does the bribe have to be monetary?	X	X
Public officials		
Does the offence only apply to bribing public officials?	✓ ³	✓ (for the crime of active corruption in damage of international commerce) X (for the crimes of corruption in the private sector)
Acts performed outside Portugal		
Can bribery performed outside Portugal be caught?	✓ ⁴	✓ ⁶
Does the act also need to be illegal in the foreign country of performance?	X	X
Who can be liable		
Portuguese National?	✓	✓
Company incorporated in Portugal?	✓	✓
Partnership (including limited liability partnership) incorporated in Portugal?	✓ (as long as it has legal personality, for example, a branch)	✓ (as long as it has legal personality)
Director of company incorporated in Portugal?	✓	✓
Company incorporated in Portugal if the bribe is committed abroad by its foreign subsidiary?	✓ (only if the subsidiary company does not have legal personality)	✓ (only if the subsidiary company does not have legal personality)
Foreign subsidiary of a company incorporated in Portugal if the bribe is committed abroad?	X	X
Foreign national / company / partnership if the bribe is committed in Portugal?	✓	✓
Foreign national domiciled or “ordinarily resident” in Portugal if the bribe is committed outside Portugal?	✓	✓
Foreign company / partnership if bribe is committed abroad?	X	X

Portugal (continued)

Penalties	Criminal Code	Law no. 20/2008, of April 21
Penalties include:	<ul style="list-style-type: none"> — For the crime of unlawful receiving of an advantage: <ul style="list-style-type: none"> • Up to five years imprisonment or a fine of up to 600 days⁵ • Up to three years imprisonment or a fine of up to 360 days respectively — For the crime of passive corruption: one to eight years imprisonment — For the crime of active corruption: one to five years imprisonment — If the act or omission is not contrary to the duties of the office and the advantage is undue, the penalty will be from one to five years' imprisonment for the crime of passive corruption and up to three years' imprisonment or a fine of up to 360 days for the crime of active corruption. — If the advantage exceeds EUR 5.1m, the penalty shall be aggravated by one quarter in its minimum and maximum; if the advantage exceeds EUR 20.4m, the penalty shall be aggravated by one third in its minimum and maximum 	<ul style="list-style-type: none"> — For the crime of corruption in international commerce: one to eight years imprisonment — For the crime of active corruption in the private sector: <ul style="list-style-type: none"> • Up to three years imprisonment or a fine • If the conduct is apt to produce a distortion in competition or causes damages to a third party, up to five years imprisonment or a fine of up to 600 days — For the crime of passive corruption in the private sector: <ul style="list-style-type: none"> • Up to five years imprisonment or a fine of up to 600 days • If the conduct is apt to produce a distortion in competition or causes damages to a third party, up to eight years imprisonment
Defences		
Are there any defences available?	<ul style="list-style-type: none"> — The company can avoid liability if it can demonstrate that the criminally relevant act or omission was not perpetrated on its behalf or collective interest and that there were no violations of any duties of due diligence or control by the person with a leadership position responsible for these duties — The company may also avoid liability if it can demonstrate that the perpetrator acted against orders or express instructions provided by those with the authority and capacity to do so 	<ul style="list-style-type: none"> — The company can avoid liability if it can demonstrate that the criminally relevant act or omission was not perpetrated on its behalf or collective interest and that there were no violations of any duties of due diligence or control by the person with a leadership position responsible for these duties — The company may also avoid liability if it can demonstrate that the perpetrator acted against orders or express instructions provided by those with the authority and capacity to do so

¹ Regarding the offence of unlawful receiving of an advantage, the law specifically states that socially adequate conduct in conformity with traditions and customs is not punishable.

² Although the gift cannot be so small that it is not considered an "advantage".

³ Though if the perpetrator receives aid or cooperation in the perpetration of the offence by someone who is not an official, they may also be liable for such participation.

⁴ Though in only a few specific circumstances included in Article 5 (1), b), e), f) and g) of the Portuguese Criminal Code, for example, (i) if the victim and perpetrator are Portuguese, live in Portugal at the time the offence is committed and the perpetrator is captured in Portuguese territory or (ii) if the offence is committed against a Portuguese victim by a Portuguese or foreign perpetrator who is captured in Portugal, where the offence is punishable in the country in which it was perpetrated and the facts that constitute the offence allow for extradition of the perpetrator and the extradition cannot be granted or when the Portuguese authorities decide not to surrender the subject in execution of an European arrest warrant or of any other legal instrument of international cooperation that binds the Portuguese State.

⁵ The fine applicable to legal and natural persons is calculated in a variable amount by reference to the number of days in prison applicable to natural persons. The amount will be calculated taking into consideration the economic and financial status of the defendant, as well as its expenses.

⁶ In addition to the circumstances included in Article 5 (1) above, the perpetrator may also be caught outside the jurisdiction in the circumstances mentioned in Article 3 of Law no. 20 / 2008, of 21 April, for example, in cases of active corruption in international commerce where the perpetrator, whether foreign or Portuguese, is captured in Portuguese territory or in cases of active or passive corruption in the private sector if the perpetrator is a public servant or the holder of any political office, or both a Portuguese national and an employee of a public international organisation.

Romania

Sources of law <i>Criminal Code (new version, applicable since 1 February 2014)</i> <i>Law 78/2000 on prevention, discovery and punishing corruption act</i> <i>Law no. 656/2002 on prevention and sanctioning of money laundering</i> <i>Law no. 82/1991 on accounting registrations</i>	
Offence	<p>Bribery The promise, giving or offering of money or other benefits to a public official by any person, directly or indirectly, in exchange for performing, not performing, speeding up or delaying the performance of an action which falls under the scope of their professional duties or with respect to the performance of an action contrary to their professional duties.</p> <p>Receiving bribes The action of a public official who, directly or indirectly, for themselves or on behalf of others, solicits or receives money or other undue benefits or accepts a promise of money or benefits, in exchange for performing, not performing, speeding up or delaying the performance of an action which falls under the scope of their professional duties or with respect to the performance of an action contrary to their professional duties.</p> <p>Traffic of influence Soliciting, receiving or accepting the promise of money or other benefits, directly or indirectly, for oneself or for another, committed by a person who has influence or who alleges that they have influence over a public servant and who promises they will persuade the latter to perform, fail to perform, speed up or delay the performance of an act that falls under the latter's professional duties or to perform an act contrary to such duties.</p> <p>Buying influence The promise, supply or giving of money or other benefits, for oneself or for another, directly or indirectly, to a person who has influence or who alleges they have influence over a public servant to persuade the latter to perform, fail to perform, speed up or delay the performance of an act that falls under the latter's professional duties or to perform an act contrary to such duties. As well as setting out a number of other corruption-related offences, Law 78 / 2000 provides more serious sanctions (for example longer prison sentences) for the offences listed herein where those offences are committed by a public official.</p>
The bribe	
Is there a presumption that any advantage was given/received corruptly?	X
Would facilitation payments be caught?	✓
Would corporate hospitality be caught?	✓ (depends on intent)
Is there any <i>de minimis</i> ?	X
Does the bribe have to be monetary?	X
Public officials	
Does the offence only apply to bribing public officials?	X
Acts performed outside Romania	
Can bribery performed outside Romania be caught?	✓
Does the act also need to be illegal in the foreign country of performance?	✓ (depends on the crime perpetrated and on the International Conventions between the state of the perpetrator and the state where the crime was perpetrated)
Who can be liable	
Romanian national?	✓
Romanian company?	✓
Romanian partnership (including limited liability partnership)?	X (there is no legal concept of "partnership" under Romanian law)
Director of Romanian company?	✓
Romanian company if the bribe is committed abroad by its foreign subsidiary?	X
Foreign subsidiary of a Romanian company if the bribe is committed abroad?	X (only liable if subsidiary is not a different legal entity than the parent company)
Foreign national / company / partnership if bribe is committed in Romania?	✓
Foreign national domiciled or "ordinarily resident" in Romania if bribe is committed outside Romania?	✓ (if the conduct is a crime in the state where it was committed and if the perpetrator is voluntarily on Romanian territory)
Foreign company / partnership if bribe is committed abroad?	X
Penalties	
Penalties include:	<ul style="list-style-type: none"> For the most serious corruption offences, the Romanian Criminal Code provides a maximum prison sentence of ten years. Depending on the circumstances of the criminal act or the previous criminal activity of the perpetrator, the maximum penalty may be increased under certain conditions In cases of corruption crimes committed by certain persons (judge, prosecutor, arbitrator, criminal investigator etc.), the prison sentence is increased by a third under Law no. 78 / 2000 Other penalties include restrictions on certain property, confiscation of money, valuables, or any other type of goods used for committing the crime, if these goods cannot be returned to the victim; where goods cannot be found, the offender has to pay the pecuniary equivalent
Defences	
Are there any defences available?	<ul style="list-style-type: none"> The bribery shall not constitute an offence when the bribe giver was constrained by any means by the bribe taker The bribe giver or receiver will not be liable if he reveals his conduct to the authorities before the latter is formally tasked with investigating his crime If the bribe giver cooperates with the authorities to discover other bribery activities, the applicable penalty is reduced by 50%

Russia

Sources of law	
<i>Criminal Code, Code on Administrative Offences, Federal Law on Anti-Corruption, Federal Law on Counteraction against Laundering of Income Received by Illegal Means and Financing of Terrorism, Federal Law on State Civic Service</i>	
Offence	<p>The Anti-corruption Law defines corruption as: (i) the abuse of an official rank or powers; (ii) giving or receiving a bribe; (iii) commercial bribery; (iv) other illegal use of official rank by an individual contrary to the lawful interests of the state and society for the purpose of any form of material benefit for oneself or others; or (v) the illegal provision of a material benefit to a public official by another individual on their own behalf, or on behalf of or pursuant to the interests of a legal entity.</p> <p>Bribery is subject to the Criminal Code and consists of two interdependent elements: (i) the giving of a bribe; and (ii) the taking of a bribe. They are committed simultaneously and result in two separate crimes. According to the Anti-corruption Law, a bribe involving money and other assets may be a property-related benefit, service or a favour, and must have a monetary value (renovation, building a house, etc.). Property-related services may include the transfer of property at an undervalue, a reduction of lease payments or loan interest rates.</p> <p>If these benefits are provided to family members or friends of the official, with the official's approval or consent, and the official has used his/her official powers to the benefit of the briber, this also constitutes bribery. Commercial bribery is the illegal transfer of material assets to a legal entity's manager in connection with his/her position as well as the unlawful rendering of property-related services, or the granting of other property rights to him/her for taking action (or refraining from action) in the interest of the giver. Material benefit includes money, valuables, other property or pecuniary services, benefits of a "property character" and other property rights.</p>
The bribe	
Is there a presumption that any advantage was given/received corruptly?	X
Would facilitation payments be caught?	✓ (unless permitted by law)
Would corporate hospitality be caught?	X (provided that the hospitality is reasonable and is not aimed at the receipt of illegal advantages from the persons who are being hosted)
Is there any <i>de minimis</i> ?	✓ ¹
Does the bribe have to be monetary?	X
Public officials	
Does the offence only apply to bribing public officials?	X
Acts performed outside Russia	
Can bribery performed outside Russia be caught?	✓
Does the act also need to be illegal in the foreign country of performance?	X
Who can be liable	
Russian national?	✓
Russian company?	✓
Russian partnership (including limited liability partnership)?	✓
Director of Russian company?	✓
Russian company if the bribe is committed abroad by its foreign subsidiary?	✓
Foreign subsidiary of a Russian company if the bribe is committed abroad?	✓
Foreign national / company / partnership if bribe is committed in Russia?	✓
Foreign national domiciled or "ordinarily resident" in Russia if bribe is committed outside Russia?	✓
Foreign company / partnership if bribe is committed abroad?	✓
Penalties	
Penalties include:	<p>Individuals are subject to:</p> <ul style="list-style-type: none"> — liability to reimburse losses in full (under the Russian Civil Code) — disciplinary actions resulting in the termination of employment (under the Russian Labour Code) — up to ten years' imprisonment for abuse of authority — up to eight years' imprisonment for commercial bribery (for the bribe giver) — up to 12 years' imprisonment for abuse of authority in conjunction with commercial bribery — up to 15 years' imprisonment for a public official who receives a bribe — up to 15 years' imprisonment for bribe giving — disqualification of a bribed public official from holding public office for up to 15 years — up to seven years' imprisonment for facilitating bribery in commercial and other organisations — up to 12 years' imprisonment for facilitating bribery of public officials <p>In addition to or instead of the abovementioned liability, those giving or receiving bribes (including commercial bribes) may be fined ten to 100 times the amount of the bribe offered/received.</p> <p>Legal entities may be prosecuted for: the illegal employment of a current or former public official, carrying a fine up to RUB 500,000; and the illegal payment of a bribe on behalf of a legal entity, carrying a fine of at least RUB 1m and up to 100 times the amount of the bribe plus seizure of the amount paid.</p>
Defences	
Are there any defences available?	✓ ²

¹ Cost of gifts between legal entities or to state officials may not exceed RUR 3,000 (approx. EUR 35). There is a risk that even this amount may be deemed as a bribe unless proved there was a direct intention for it to be a gift.

² An individual who has given the bribe may be absolved from criminal liability if he/she actively contributed to solving or preventing the bribery offence and informed authorities about the bribe. However, in practice such contribution may only result in a softer sentence.

Serbia

Source of law	<p>Criminal Code (Official Gazette of RS No. 85 / 2005, 88 / 2005, 107 / 2005, 72 / 2009 and 111 / 2009, 121/2012, 104/2013, 108/2014, 94/2016 and 35/2019)</p> <p>Law on Criminal Liability of Legal Entities (Official Gazette of RS No. 97 / 2008)</p> <p>Law on the confiscation of property arising from the criminal act (Official Gazette of RS Nos. 32/2013, 94/2016 and 35/2019)</p> <p>Law on prevention of corruption (Official Gazette of RS Nos. 35/2019 and 88/2019)</p>
Offence	<p>Giving a bribe in business activities Offering, promising or giving a bribe (or intermediating in those actions) during a business activity in order to favour the briber or someone else by or when making or performing a deal or rendering services, to the detriment of an entity the recipient represents or works for.</p> <p>Accepting a bribe in business activities Demanding or accepting a bribe (or the offer or promise of a bribe), or intermediating in those actions, during a business activity in order to favour someone by or when making or performing a deal or rendering services, to the detriment of an entity they represent or work for.</p> <p>Giving a bribe Offering, promising or giving a bribe (or intermediating in those actions) to an official¹ or responsible person in the company² in order for them to (within or outside their powers) perform / not perform an action which should not / should be performed.</p> <p>Accepting a bribe Demanding or accepting a bribe or the offer or promise of a bribe by an official or responsible person for themselves or someone else, in order for them to (within or outside their powers) perform / not perform an action which should not / should be performed, as well as demanding or accepting a bribe after performing / not performing such action.</p> <p>Trading in influence Requesting or receiving a gift or any other benefit for himself or another, directly or through a third party, to use his official or social position or actual or presumed influence, to mediate to perform or not to perform an official action. Promising, offering or giving a gift or some other benefit to another through the use of his official or social position or actual or presumed influence to mediate the performance or non-performance of an official action.</p>
The bribe	
Is there a presumption that any advantage was given/received corruptly?	X
Would facilitation payments be caught?	✓
Would corporate hospitality be caught?	✓
Is there any <i>de minimis</i> ?	✓ (i.e. if the degree of guilt is low, if there are no harmful consequences and / or if the offence is minor and imposing a penalty would not be in line with Serbian public policy)
Does the bribe have to be monetary?	X
Public officials	
Does the offence only apply to bribing public officials?	X
Acts performed outside Serbia	
Can bribery performed outside Serbia be caught?	✓
Does the act also need to be illegal in the foreign country of performance?	✓ (if the bribe is performed by the foreign national)
Who can be liable	
Serbian national?	✓
Serbian company?	✓
Serbian partnership (including limited liability partnership)?	✓
Director of Serbian company?	✓
Serbian company if the bribe is committed abroad by its foreign subsidiary?	✓
Foreign subsidiary of a Serbian company if the bribe is committed abroad?	✓
Foreign national / company / partnership if bribe is committed in Serbia?	✓
Foreign national domiciled or "ordinarily resident" in Serbia if bribe is committed outside Serbia?	✓
Foreign company / partnership if bribe is committed abroad?	✓ ³ (under certain conditions)
Penalties	
Penalties include:	<p>Individuals</p> <ul style="list-style-type: none"> — Imprisonment of up to 15 years (aggregated, together with different modalities of the offence) — Seizure of the given award, gift or other property benefit <p>Punishment may be remitted if a person committed the criminal offence based on a request and reports the criminal offence</p> <p>Companies</p> <ul style="list-style-type: none"> — Fines (not higher than the equivalent of around EUR 4.235m) — Confiscation — Winding-up
Defences	
Are there any defences available?	✓ ⁴

¹ Article 368 of the Criminal Code of Serbia.

² Article 231 of the Criminal Code of Serbia.

³ If the foreign company / partnership is within the jurisdictional reach of the Serbian authorities (i.e. if the individual responsible is in Serbia or has been extradited there) and an offence has been committed against Serbia or a Serbian national.

⁴ In relation to offences under the Serbian Criminal Code, an individual may be cleared of charges if after committing the act of bribery (giving a gift or other benefit) that individual reports the bribe before it has been detected.

Sources of law		Act No. 300/2005 Coll. the Penal Code as amended, Act No. 301/2005 Coll. the Criminal Procedure Code as amended, Act No. 291/2009 Coll. establishing Specialized Criminal Court Act, as amended, Act No. 91/2016 Coll. establishing criminal liability of legal persons.
Offence	Receiving bribes <ul style="list-style-type: none">— Whoever directly or indirectly requests, accepts or accepts the promise of a bribe for acting or not acting in a way that violates duties of one’s employment, occupation, position or function; or— whoever directly or indirectly, in connection with the procurement of goods of general interest for themselves or for another person, accepts, requests or accepts the promise of a bribe; or— a foreign public official directly or indirectly requests, accepts or accepts the promise of a bribe in connection with performance of official duties or in connection with the discharge of their office, with the intention to gain or preserve a disproportionate advantage.	Bribery <ul style="list-style-type: none">— Whoever directly or indirectly provides, offers, or promises a bribe for another person for acting or not acting in a way that violates duties of one’s employment, occupation, position or function; or— whoever directly or through another person provides, offers, or promises a bribe for another person in connection with the procurement of goods of general interest; or— whoever directly or indirectly provides, offers, or promises a bribe to a foreign public official or another person in connection with performance of official duties or in connection with the discharge of their office as a foreign public official, with the intention to gain or preserve a disproportionate advantage.
The bribe		
Is there a presumption that any advantage was given/received corruptly?	X	X
Would facilitation payments be caught?	✓	✓
Would corporate hospitality be caught?	✓ ¹	✓ ¹
Is there any <i>de minimis</i> ?	X	X
Does the bribe have to be monetary?	X	X
Public officials		
Does the offence only apply to bribing public officials?	X	X
Acts performed outside Slovakia		
Can bribery performed outside Slovakia be caught?	✓ ²	✓ ²
Does the act also need to be illegal in the foreign country of performance?	X	X
Who can be liable		
Slovakian national?	✓	✓
Company incorporated in Slovakia?	✓	✓
Partnership (including limited liability partnership) incorporated in Slovakia?	✓	✓
Director of company incorporated in Slovakia?	✓	✓
Company incorporated in Slovakia if the bribe is committed abroad by its foreign subsidiary?	✓ ³	✓ ³
Foreign subsidiary of a company incorporated in Slovakia if the bribe is committed abroad?	✓	✓
Foreign national / company / partnership if bribe is committed in Slovakia?	✓	✓
Foreign national domiciled or “ordinarily resident” in Slovakia if bribe is committed outside Slovakia?	✓	✓
Foreign company / partnership if bribe is committed abroad?	✓ ³	✓ ³
Penalties		
Penalties include:	Individuals <ul style="list-style-type: none">— Imprisonment for up to 15 years Companies <ul style="list-style-type: none">— Confiscation of property and/or a fine up to EUR 1.6m	
Defences		
Are there any defences available?	X	X

¹ Public officials are prohibited from accepting any corporate hospitality.

² If committed: (1) by a Slovak national or a body incorporated in the Slovak Republic; or (2) outside the jurisdiction, but the result of the bribe impacts the Slovak Republic.

³ Provided that the act was committed: (1) for the benefit of a Slovak legal entity, Slovak citizen or foreigner having his/her permanent residency in Slovakia; or (2) caused damage to a Slovak legal entity, a Slovak citizen or a foreigner having his/her permanent residence in Slovakia and the act is also illegal in the foreign country of performance or place of performance is outside of any jurisdiction (terra nullius).

Slovenia

Source of law		The Criminal Code ¹
Offence		<p>Unauthorised Giving of Gifts (Article 242 KZ-1) The crime is committed if one promises, offers, or gives an unauthorised award, gift or any other property benefit to a person performing an economic activity, intended for such a person or any third person with a view to obtaining any benefit for himself or any third person when concluding or retaining a contract or other benefit. The benefit obtained may be unjustified (basic execution form) or not (privileged execution form).</p> <p>Unauthorised Acceptance of Gifts (Article 241 KZ-1) The crime is committed if one, in the performance of an economic activity, requests or agrees to accept for himself or any third person an award, gift or other property benefit, or a promise or offer for such benefit, in order to conclude or retain a contract or other benefit. Thereby interests of the perpetrator's organisation may be neglected (basic form of execution) or not (privileged execution form).</p>
The bribe		
Is there a presumption that any advantage was given/received corruptly?	X	X
Would facilitation payments be caught?	✓	✓
Would corporate hospitality be caught?	✓(depends on the intent)	✓(depends on the intent)
Is there any <i>de minimis</i> ?	✓	✓
Does the bribe have to be monetary?	X	X
Public officials		
Does the offence only apply to bribing public officials?	X	X
Acts performed outside Slovenia		
Can bribery performed outside Slovenia be caught?	✓ ²	✓ ²
Does the act also need to be illegal in the foreign country of performance?	✓	✓
Who can be liable		
Slovenian national?	✓	✓
Slovenian company?	✓	✓
Slovenian partnership (including limited liability partnership)?	✓	✓
Director of Slovenian company?	✓	✓
Slovenian company if the bribe is committed abroad by its foreign subsidiary?	✓(if the criminal offence was conducted against the Republic of Slovenia or a Slovenian national or a Slovenian legal entity)	✓(if the criminal offence was conducted against the Republic of Slovenia or a Slovenian national or a Slovenian legal entity)
Foreign subsidiary of a Slovenian company if the bribe is committed abroad?	✓(if the criminal offence was conducted against the Republic of Slovenia or a Slovenian national or a Slovenian legal entity)	✓(if the criminal offence was conducted against the Republic of Slovenia or a Slovenian national or a Slovenian legal entity)
Foreign national / company / partnership if bribe is committed in Slovenia?	✓	✓
Foreign national domiciled or "ordinarily resident" in Slovenia if bribe is committed outside Slovenia?	✓(if: (i) a crime is committed against the Republic of Slovenia or a Slovenian national; or (ii) a crime is committed against a foreign country or foreign national and this person has been apprehended in the territory of the Republic of Slovenia) ³	✓(if: (i) a crime is committed against the Republic of Slovenia or a Slovenian national; or (ii) a crime is committed against a foreign country or foreign national and this person has been apprehended in the territory of the Republic of Slovenia) ³
Foreign company / partnership if bribe is committed abroad?	✓(if it has its seat or business operation in the Republic of Slovenia and the crime was committed against the Republic of Slovenia, a Slovenian national or a Slovenian legal entity)	✓(if it has its seat or business operation in the Republic of Slovenia and the crime was committed against the Republic of Slovenia, a Slovenian national or a Slovenian legal entity)
Penalties		
Penalties include:	<p>Individuals:</p> <ul style="list-style-type: none"> — imprisonment up to six years — monetary fine — seizure of the given award, gift or other property benefit <p>Punishment may be remitted if a person committed the criminal offence based on request and reports the criminal offence.</p> <p>Companies:</p> <ul style="list-style-type: none"> — Fine of at least EUR 50,000 and up to EUR 1m or, in cases where damage is caused by the criminal offence or benefit obtained, up to 200 times the amount of damage caused or benefit obtained — Confiscation — Winding-up — Prohibition on trading with financial instruments for up to eight years <p>Punishment may be reduced if the crime was committed by omitting due supervision of employees and the legal entity reports the criminal offence before it is discovered. Punishment could also be remitted if the company: (i) committed the crime by omitting due supervision of employees and reports the criminal offence before it is discovered and orders immediate restitution of unlawfully obtained benefits or; (ii) provides indemnification for damage caused; or (iii) reports the criminal offence for liability of another legal entity.</p>	<p>Individuals:</p> <ul style="list-style-type: none"> — imprisonment from three months up to six years — monetary fine — seizure of the given award, gift or other property benefit <p>Companies:</p> <ul style="list-style-type: none"> — Fine of at least EUR 50,000 and up to EUR 1m or, in cases where damage is caused by the criminal offence or benefit obtained, up to 200 times the amount of damage caused or benefit obtained — Confiscation — Winding-up — Prohibition on trading with financial instruments for up to eight years <p>Punishment may be reduced if the crime was committed by omitting due supervision of employees and the legal entity reports the criminal offence before it is discovered. Punishment could also be remitted if the company: (i) committed the crime by omitting due supervision of employees and reports the criminal offence before it was discovered and orders immediate restitution of unlawfully obtained benefits or; (ii) provides indemnification for damage caused; or (iii) reports the criminal offence of another legal entity being liable.</p>
Defences		
Are there any defences available?	X (only regular legal remedies in a criminal procedure)	X (only regular legal remedies in a criminal procedure)

Slovenia (continued 1)

Source of law	The Criminal Code	
Offence	Giving Bribes (Article 262 KZ-1) The crime is committed if one promises, offers or gives an award, gift or other benefit to an official or a public officer for him or any third person in order for him either to perform or omit to perform an official act or makes other abuse of his position, or if one serves as an agent for the purpose of bribing an official. Thereby, such official act can be outside of its official duties (basic execution form) or within the scope of the official duties (privileged execution form).	Acceptance of Bribes (Article 261 KZ-1) The crime is committed if an official or a public officer requests or agrees to accept for himself or any third person an award, gift or other property benefit, or a promise or offer for such benefit, in order to perform an official act or make other abuse of his position, or if one serves as an agent for the purpose of bribing an official. Thereby, such official act could be outside of official duties (basic execution form) or within the scope of the official duties (privileged execution form).
The bribe		
Is there a presumption that any advantage was given/received corruptly?	X	X
Would facilitation payments be caught?	✓	✓
Would corporate hospitality be caught?	✓(depends on the intent)	✓(depends on the intent)
Is there any <i>de minimis</i> ?	✓	✓
Does the bribe have to be monetary?	X	X
Public officials		
Does the offence only apply to bribing public officials?	✓	✓
Acts performed outside Slovenia		
Can bribery performed outside Slovenia be caught?	✓ ²	✓
Does the act also need to be illegal in the foreign country of performance?	✓	✓
Who can be liable		
Slovenian national?	✓	✓
Slovenian company?	✓	X
Slovenian partnership (including limited liability partnership)?	✓	X
Director of Slovenian company?	✓	X
Slovenian company if the bribe is committed abroad by its foreign subsidiary?	✓(if the criminal offence was conducted against the Republic of Slovenia or a Slovenian national or a Slovenian legal entity)	X
Foreign subsidiary of a Slovenian company if the bribe is committed abroad?	✓(if the criminal offence was conducted against the Republic of Slovenia or a Slovenian national or a Slovenian legal entity)	X
Foreign national / company / partnership if bribe is committed in Slovenia?	✓	X
Foreign national domiciled or "ordinarily resident" in Slovenia if bribe is committed outside Slovenia?	✓(if: (i) a crime is committed against the Republic of Slovenia or a Slovenian national; or (ii) a crime is committed against a foreign country or foreign national and this person has been apprehended in the territory of the Republic of Slovenia) ³	✓(if: (i) a crime is committed against the Republic of Slovenia or a Slovenian national; or (ii) a crime is committed against a foreign country or foreign national and this person has been apprehended in the territory of the Republic of Slovenia) ³
Foreign company / partnership if bribe is committed abroad?	✓(if it has its seat or business operation in the Republic of Slovenia and the crime was committed against the Republic of Slovenia, a Slovenian national or a Slovenian legal entity)	X
Penalties		
Penalties include:	Individuals: — imprisonment from six months up to six years — monetary fine Punishment may be remitted if such a person has committed a criminal offence on request of an official person or public servant and reports the criminal offence. Companies: — Fine of at least EUR 50,000 and up to EUR 1m or, in cases where damage is caused by the criminal offence or benefit obtained, up to 200 times the amount of damage caused or benefit obtained — Confiscation — Winding-up — Prohibition on trading with financial instruments for up to eight years Punishment may be reduced if the crime was committed by omitting due supervision of employees and the legal entity reports the criminal offence before it is discovered. Punishment could also be remitted if the company: (i) committed the crime by omitting due supervision of employees and reports the criminal offence before it was discovered and orders immediate restitution of unlawfully obtained benefits or; (ii) provides indemnification for damage caused; or (iii) reports the criminal offence of another legal entity being liable.	Individuals — imprisonment up to eight years — monetary fine — seizure of the given award, gift or other property benefit Companies — The Republic of Slovenia and municipalities are not liable for this criminal offence
Defences		
Are there any defences available?	X (only regular legal remedies in a criminal procedure)	X (only regular legal remedies in a criminal procedure)

Slovenia (continued 2)

Source of law	<i>The Integrity and Prevention of Corruption Act⁴</i>	<i>The Integrity and Prevention of Corruption Act⁷</i>
Offence	Prohibition and restrictions with regard to the acceptance of gifts by officials (Article 30 ZIntPK) An official (i.e. a functionary) shall not accept gifts or other benefits relating to the holding of the office, except for protocol gifts ⁵ and occasional gifts of low value ⁶ . Officials may not receive gifts, regardless of their value, that affect or may affect the legal, objective and impartial holding of the office. Prohibitions and restrictions also apply to family members of the official.	Gifts to State and local bodies and holders of public authority (Article 34 ZIntPK) State bodies, local authorities and holders of public authority may accept gifts only subject to the conditions set out by law. They may, regardless of the provisions of the law, never receive gifts which affect or may affect the legality, objectivity and impartiality of their work.
The bribe		
Is there a presumption that any advantage was given/received corruptly?	X	X
Would facilitation payments be caught?	✓	✓
Would corporate hospitality be caught?	✓(depends on the intent)	✓(depends on the intent)
Is there any <i>de minimis</i> ?	✓	✓
Does the bribe have to be monetary?	X	X
Public officials		
Does the offence only apply to bribing public officials?	✓	X
Acts performed outside Slovenia		
Can bribery performed outside Slovenia be caught?	X	X
Does the act also need to be illegal in the foreign country of performance?	X	X
Who can be liable		
Slovenian national?	✓	✓
Slovenian company?	X	✓
Slovenian partnership (including limited liability partnership)?	X	✓
Director of Slovenian company?	X	✓
Slovenian company if the bribe is committed abroad by its foreign subsidiary?	X	X
Foreign subsidiary of a Slovenian company if the bribe is committed abroad?	X	X
Foreign national / company / partnership if bribe is committed in Slovenia?	✓(however only by a foreign national acting in a public official role, and not by a company or partnership)	✓
Foreign national domiciled or "ordinarily resident" in Slovenia if bribe is committed outside Slovenia?	X	X
Foreign company / partnership if bribe is committed abroad?	X	X
Penalties		
Penalties include:	— Fines for individuals ranging from EUR 400 to EUR 1,200	— Fines for a misdemeanour of an individual responsible person ranging from EUR 400 to EUR 4,000 — Fines from EUR 400 to EUR 100,000 for a misdemeanour of a holder of a public authority or another legal entity in the public or private sector (except the Republic of Slovenia and local communities)
Defences		
Are there any defences available?	X (only initiation of an administrative dispute)	X (only initiation of an administrative dispute)

¹ The Criminal Code (Kazenski zakonik, Official Gazette of the Republic of Slovenia, No. 55 / 2008 et al., hereinafter referred to as KZ-1).

² If committed by: (i) a Slovenian national; or (ii) a Slovenian or foreign legal entity, if that legal entity has its seat or business operation in the Republic of Slovenia and the crime was committed against the Republic of Slovenia, a Slovenian national or a Slovenian legal entity; (iii) a foreign national, if a crime is committed against the Republic of Slovenia or a Slovenian national; (iv) a foreign national, if a crime is committed against a foreign country or foreign national and this person has been apprehended in the territory of the Republic of Slovenia; or (v) any person that committed a crime abroad and such crime is being prosecuted pursuant to an international agreement or general legal principles.

³ KZ-1 is also applicable to any foreign citizen who has, in a foreign country committed an offence (as defined by the country in which the act was perpetrated) against a third country or any of its citizens if he has been apprehended in the territory of the Republic of Slovenia, but not extradited to the foreign country. In such cases, the sentence shall be no more severe than the prescribed by the law of the country in which the offence was committed. Perpetrators shall not be prosecuted: (1) if they have served the sentence imposed on them in the foreign country or if it was decided in accordance with an international agreement that the sentence imposed in the foreign country is to be served in the Republic of Slovenia; (2) if he/she has been acquitted by a foreign court or if his/her sentence has been remitted or the execution of the sentence has fallen under the statute of limitations; (3) if, according to foreign law, the criminal offence concerned may only be prosecuted upon the complaint of the injured party and the latter has not been filled. KZ-1 shall also apply to anyone who commits an offence abroad pursuant to an international agreement or general principle of law, prosecutable in all countries irrespective of the place where it was committed. Permission of the Minister for the Judicial Affairs is required for the prosecution.

⁴ The Integrity and Prevention of Corruption Act (Zakon o integriteti in preprečevanju korupcije), Official Gazette of the Republic of Slovenia, No. 69/2011, hereinafter referred to as ZIntPK.

⁵ Gifts to officials from representatives of other government bodies, countries and international organisations and institutions given in the course of visits or on other occasions, and other gifts given in similar circumstances, shall be regarded as protocol gifts.

⁶ Gifts given on special occasions not exceeding the value of EUR 75 or gifts for which the total value in a year does not exceed EUR 150, if they are received from the same person, shall be regarded as occasional gifts of low value. In no case may cash, securities or precious metals be received as a gift of low value.

⁷ See footnote 4.

Spain

Sources of Law		Articles 419 – 422, 424, 427, 427 bis, 445 and 286 ter of the Penal Code
Offence		Bribing Offering handouts, favours or remuneration of any kind to a public official ¹ (for their or another's benefit) <ul style="list-style-type: none"> — to perform an act contrary to his duties — to omit or delay performance of an act within his duties — to carry out an act inherent to his office — offering in view of his office or duty Offering, promising or giving an advantage to a foreign public official ² (for their or another's benefit) to act or refrain from acting in a particular way, in order to obtain or retain business or another unfair advantage. Being bribed A public official soliciting or accepting a gift or other benefit: (1) to implement an unfair action; (2) to perform or omit to perform an act within the scope of his authority; or (3) as a reward for the same.
The bribe		
Is there a presumption that any advantage was given/received corruptly?		X
Would facilitation payments be caught?		✓
Would corporate hospitality be caught?		✓
Is there any <i>de minimis</i> ?		X
Does the bribe have to be monetary?		X
Public officials		
Does the offence only apply to bribing public officials?		✓
Acts performed outside your jurisdiction		
Can bribery performed outside Spain be caught?		✓ (if committed by a Spanish national / resident ⁴)
Does the act also need to be illegal in the foreign country of performance?		✓
Who can be liable		
Spanish national?		✓
Spanish company?		✓
Spanish partnership (including limited liability partnership)?		✓
Director of Spanish company?		✓
Spanish company if the bribe is committed abroad by its foreign subsidiary?		✓ (if certain requirements are met ⁵)
Foreign subsidiary of a Spanish company if the bribe is committed abroad?		✓ (if certain requirements are met ⁵)
Foreign national / company / partnership if bribe is committed in Spain?		✓
Foreign national domiciled or "ordinarily resident" in Spain if bribe is committed outside Spain?		✓ (if a crime of corruption between private parties or in an international financial transaction)
Foreign company / partnership if bribe is committed abroad?		X
Penalties		
Penalties include:	Individuals <ul style="list-style-type: none"> — Imprisonment of up to six years or a fine — Fine up to 24 months⁶ — Disqualification of the public official from public employment for up to 12 years depending on the offence — If the bribe was given in relation to public tenders, private individuals face disqualification from public tenders, subsidies and aid for five to ten years — If the bribe was given in relation to international economic transactions, private individuals face debarment from public contracts, subsidies and aid, and any tax or Social Security benefits and incentives, and prohibition from taking part in commercial transactions of public relevance for up to 12 years 	Companies Fines of up to five times the benefit obtained. In addition, the Courts may also order: <ul style="list-style-type: none"> — Dissolution — Suspension of activities for up to five years — Closure of premises and establishments for up to five years — Temporary or permanent prohibition on carrying out the activities through which it committed, favoured or concealed the felony; if temporary, the term may not exceed 15 years — Debarment from obtaining public contracts, subsidies and aid, and any tax or Social Security benefits and incentives, for up to 15 years — Judicial intervention to safeguard the rights of the workers or creditors for the time deemed necessary up to five years
Defences		
Are there any defences available?		✓ If an individual reports the benefit required from a public authority / officer before proceedings commence and within two months of the relevant event, he shall be exempt from punishment. Implementing a crime prevention programme, in line with the requirements set out in the Article 31 bis of the Penal Code, may exempt or reduce the criminal liability of the legal entity.

Spain (continued)

Sources of Law		Article 286 bis of the Penal Code
Offence		Bribing Offering, promising or giving any advantage to a director, manager, or employee of a company whether for his or another's benefit, in return for the non-performance of his obligations. ³ Being bribed Requesting or accepting such advantage -or the offer or promise to obtain it in the future- by such director, manager, or employee for such non-performance.
The bribe		
Is there a presumption that any advantage was given/received corruptly?		X
Would facilitation payments be caught?		X
Would corporate hospitality be caught?		✓
Is there any <i>de minimis</i> ?		X
Does the bribe have to be monetary?		X
Public officials		
Does the offence only apply to bribing public officials?		X
Acts performed outside your jurisdiction		
Can bribery performed outside Spain be caught?		✓ (if committed by a Spanish national / resident ⁴)
Does the act also need to be illegal in the foreign country of performance?		✓
Who can be liable		
Spanish national?		✓
Spanish company?		✓
Spanish partnership (including limited liability partnership)?		✓
Director of Spanish company?		✓
Spanish company if the bribe is committed abroad by its foreign subsidiary?		✓ (if certain requirements are met ⁵)
Foreign subsidiary of a Spanish company if the bribe is committed abroad?		✓ (if certain requirements are met ⁵)
Foreign national / company / partnership if bribe is committed in Spain?		✓
Foreign national domiciled or "ordinarily resident" in Spain if bribe is committed outside Spain?		✓ (if a crime of corruption between private parties or in an international financial transaction)
Foreign company / partnership if bribe is committed abroad?		X
Penalties		
Penalties include:		Individuals — Imprisonment of up to four years — Disqualification from engaging in trade for up to six years — Fines of up to three times the value of the profit or advantage obtained Companies Fine of up to five times the benefit obtained. In addition, a court may also order: — Dissolution — Suspension of activities for up to five years — Closure of premises and establishments for up to five years — Temporary or permanent prohibition on carrying out the activities, through which it committed, favoured or concealed the felony; if temporary, the term may not exceed 15 years — Debarment from obtaining public contracts, subsidies and aid, and any tax or Social Security benefits and incentives, for up to 15 years — Judicial intervention to safeguard the rights of the workers or creditors for the time deemed necessary for up to five years
Defences		
Are there any defences available?		✓ Implementing a crime prevention programme, in line with the requirements set out in the Article 31 bis of the Penal Code, may exempt or reduce the criminal liability of the legal entity.

¹ Public official means a person who exercises public functions and includes jury members, arbitrators, experts, and anyone performing or providing public services and judicially appointed auditors. All EU public officials (i.e. public officials of any Member State and those performing equivalent functions within EU bodies) are treated as public officials for these purposes.

² Foreign public official means any person holding a legislative, administrative or judicial office of a foreign country whether appointed or elected, any person exercising a public function (including at a public agency or enterprise) of a foreign country, any agent or officer of a public international organisation and any person who has been assigned, and is performing, a public service consisting of managing the EU's financial interests or on taking decisions regarding those interests.

³ Small promotional gifts or lunch invitations that do not give rise to relevant commercial decisions are excluded from the term "advantage or profit". However, as this is a recently incorporated article, no significant number of judicial resolutions have been issued yet. In any event, companies should implement policies and procedures for employees or representatives.

⁴ Generally provided that: (a) the act is punishable at the place of execution; (b) the injured party or the prosecutor lodges a complaint in the Spanish courts; and (c) the offender has not been indicted abroad or served a sentence for the offending (under Article 23.2 of the Ley Orgánica del Poder Judicial 6/1985 (as amended) (the LOPJ)).

⁵ i.e. the requirements in 23.2 of the LOPJ set out above and in respect of crimes of corruption between private parties or in international financial transactions: (a) the crime was committed by a director, manager, employee or collaborator of a corporate enterprise with its registered office in Spain; or (b) the crime is subject to mandatory prosecution under a treaty in force in Spain or other regulations set by international bodies of which Spain is a member (Article 23.4 of the LOPJ).

⁶ Fines imposed shall be a daily rate of EUR 2 to EUR 400 and be imposed for up to 24 months. The fine will be calculated based on the offender's financial situation, taking into account assets, incomes, obligations and family responsibilities.

Switzerland

Sources of law	<p>Article 322ter – Article 322decies Swiss Criminal Code (StGB) Article 4a Federal Act against Unfair Competition (UWG)¹ Articles 55 and 56 in conjunction with Articles 86 para. 1 lit. h respectively 87 para. 1 lit. h Federal Act on Medicinal Products and Medical Devices (HMG) as well as Article 10 Ordinance on Integrity and Transparency in the field of Medicinal Products and Medical Devices (VITH)²</p>
Offence	<p>Public Sector</p> <p>Active Bribery of Swiss and Foreign Public Officials (Articles 322ter and 322septies para. 1 StGB) Any act by which a public official^{3,4} or a third party is offered, promised or given an undue advantage in order to cause the public official to commit or omit an act in connection with his official activity which is contrary to his duty or dependent on his discretion.</p> <p>Passive Bribery of Swiss and Foreign Public Officials (Articles 322quater and 322septies para. 2 StGB) Any act by which a public official demands or secures the promise of, or accepts an undue advantage for himself or for a third party in order that he commits or omits an act in connection with his official activity which is contrary to his duty or dependent on his discretion.</p> <p>Granting an Advantage (Article 322quinquies StGB) Any act by which a Swiss public official is offered, promised or given an undue advantage for himself or for a third party in order that he carries out his official duties.</p> <p>Accepting an Advantage (Article 322sexies StGB) Any act by which a Swiss public official demands or secures the promise of, or accepts an undue advantage for himself or for a third party in order that he carries out his official duties.</p>
The bribe	
Is there a presumption that any advantage was given/received corruptly?	X
Would facilitation payments be caught?	✓ (only to Swiss public officials and persons who prescribe or dispense medicinal products)
Would corporate hospitality be caught?	✓
Is there any <i>de minimis</i> ?	✓ ⁸
Does the bribe have to be monetary?	X
Public officials	
Does the offence only apply to bribing public officials?	X (see the description of the offence above)
Acts performed outside Switzerland	
Can bribery performed outside Switzerland be caught?	✓
Does the act also need to be illegal in the foreign country of performance?	✓
Who can be liable	
Swiss national?	✓
Swiss company?	✓ ⁹
Swiss partnership (including limited liability partnership)?	✓ ¹⁰
Director of Swiss company?	✓ ¹¹
Swiss company if the bribe is committed abroad by its foreign subsidiary?	X
Foreign subsidiary of a Swiss company if the bribe is committed abroad?	X
Foreign national / company / partnership if bribe is committed in Switzerland?	✓
Foreign national domiciled or “ordinarily resident” in Switzerland if bribe is committed outside Switzerland?	✓ ¹²
Foreign company / partnership if bribe is committed abroad?	✓
Penalties	
Penalties include:	<p>Public Sector</p> <p>Individuals</p> <ul style="list-style-type: none"> — Imprisonment for up to five years (up to three years in cases of granting / acceptance of advantages) — Monetary penalty of up to CHF 540,000 — Confiscation — Potential disqualification from acting as a director or executive officer (in certain regulated sectors such as the financial sector) <p>Companies</p> <ul style="list-style-type: none"> — Fine up to CHF 5m — Confiscation
Defences	
Are there any defences available?	<ul style="list-style-type: none"> — According to Article 322decies para. 1 StGB, advantages are not deemed undue if they are either (i) permitted under public employment law (public sector); (ii) contractually approved by the employer/principal (private sector); or (iii) of minor value in accordance with social custom. — Article 55 para. 2 HMG exempts (i) “advantages of modest value (up to CHF 300) which are of relevance to medical or pharmaceutical practice”, (ii) “support for research, education and training, provided that certain criteria are met”, (iii) “compensation for equivalent services in return, in particular for those provided in connection with orders and deliveries of therapeutic products”, as well as (iv) “price discounts or refunds granted on medical purchases, provided they have no influence on the choice of treatment”. The details are outlined in the VITH.

Switzerland (continued)

Sources of law		<p>Article 322ter – Article 322decies Swiss Criminal Code (StGB) Article 4a Federal Act against Unfair Competition (UWG)¹ Articles 55 and 56 in conjunction with Articles 86 para. 1 lit. h respectively 87 para. 1 lit. h Federal Act on Medicinal Products and Medical Devices (HMG) as well as Article 10 Ordonnance on Integrity and Transparency in the field of Medicinal Products and Medical Devices (VITH)²</p>
Offence		<p>Private Sector</p> <p>Active Bribery in the Private Sector (Article 322octies StGB)⁵ Any act by which a person in the private sector⁶ is offered, promised or given an undue advantage for himself or for a third party in order to cause that person to commit or omit an act in connection with his professional or business activities that is contrary to his duties or dependent on his discretion.</p> <p>Passive Bribery in the Private Sector (Article 322novies StGB) Any act by which a person in the private sector demands, secures the promise of, or accepts an undue advantage for himself or for a third party in order to cause that person to commit or omit an act in connection with his professional or business activities that is contrary to his duties or dependent on his discretion.</p> <p>Promise of Undue Advantages (Article 55 para. 1 HMG and Article 86 para. 1 lit. h HMG) Any act by which a person offers, promises or grants an undue advantage to persons who prescribe, dispense, use or purchase for this purpose prescription medicinal products for their benefit or the benefit of a third party.⁷</p> <p>Accepting Undue Advantages (Article 55 para. 1 HMG and Article 86 para. 1 lit. h HMG) Any act by which persons who prescribe, use or purchase for this purpose prescription medical products claim, are promised or accept any undue advantage for themselves or for the benefit of a third party.</p>
The bribe		
Is there a presumption that any advantage was given/received corruptly?		X
Would facilitation payments be caught?		✓ (only to Swiss public officials and persons who prescribe or dispense medicinal products)
Would corporate hospitality be caught?		✓
Is there any <i>de minimis</i> ?		✓ ⁸
Does the bribe have to be monetary?		X
Public officials		
Does the offence only apply to bribing public officials?		X (see the description of the offence above)
Acts performed outside Switzerland		
Can bribery performed outside Switzerland be caught?		✓
Does the act also need to be illegal in the foreign country of performance?		✓
Who can be liable		
Swiss national?		✓
Swiss company?		✓ ⁹
Swiss partnership (including limited liability partnership)?		✓ ¹⁰
Director of Swiss company?		✓ ¹¹
Swiss company if the bribe is committed abroad by its foreign subsidiary?		X
Foreign subsidiary of a Swiss company if the bribe is committed abroad?		X
Foreign national / company / partnership if bribe is committed in Switzerland?		✓
Foreign national domiciled or “ordinarily resident” in Switzerland if bribe is committed outside Switzerland?		✓ ¹²
Foreign company / partnership if bribe is committed abroad?		✓
Penalties		
Penalties include:		<p>Private Sector¹³</p> <p>Individuals</p> <ul style="list-style-type: none"> — Imprisonment for up to three years — Monetary penalty up to CHF 540,000 — Confiscation — Potential disqualification from acting as a director or executive officer (in certain regulated sectors such as the financial sector) <p>Companies</p> <ul style="list-style-type: none"> — Fine up to CHF 5m — Confiscation
Defences		
Are there any defences available?		<ul style="list-style-type: none"> — According to Article 322decies para. 1 StGB, advantages are not deemed undue if they are either (i) permitted under public employment law (public sector); (ii) contractually approved by the employer/principal (private sector); or (iii) of minor value in accordance with social custom. — Article 55 para. 2 HMG exempts (i) “advantages of modest value (up to CHF 300) which are of relevance to medical or pharmaceutical practice”, (ii) “support for research, education and training, provided that certain criteria are met”, (iii) “compensation for equivalent services in return, in particular for those provided in connection with orders and deliveries of therapeutic products”, as well as (iv) “price discounts or refunds granted on medical purchases, provided they have no influence on the choice of treatment”. The details are outlined in the VITH.

¹ Article 4a UWG qualifies (active and passive) bribery as unfair conduct, exposing offenders to civil liability. The legal definition of bribery in Article 4a UWG coincides with the one in Articles 322octies and 322novies StGB on active and passive bribery in the private sector.

² Article 56 in conjunction with Article 86 para. 1 lit. h HMG and Article 10 VITH impose a duty of transparency on both the selling and the purchasing persons and organisations of medicinal products. According to this provision, all discounts and rebates granted on purchases of such products shall be shown on the receipts and invoices and shall be disclosed to the competent authorities on request. Violations of Article 56 qualify as minor offences (so-called contraventions) (see footnote 13).

³ A Swiss or foreign public official is a member of a judicial or other authority, a public employee, an officially-appointed expert, translator or interpreter, an arbitrator or a member of the armed forces.

⁴ Private individuals who fulfil official duties are subject to the same provisions as public officials (Article 322decies para. 2 StGB).

⁵ In minor cases, the offences of articles 322octies and 322novies StGB are only prosecuted on complaint. The parliamentary debate revealed the following criteria to determine minor significance: the undue advantage does not exceed “a few thousand Swiss francs”, the offence does not jeopardise the safety or health of third parties, the offence does not consist of multiple or repeated acts of bribery, the offender has not conspired with others to commit the offence and no forgery of a document was committed in connection with the act of bribery.

⁶ A person in the private sector is an employee, a company member, an agent or any other auxiliary to a third party. The meaning of the term “auxiliary” is wide and cannot be generally defined. It includes employees and business partners but also any other person who – due to a contractual relationship – is subordinate to the third party (e.g. an agent, a consultant, a lawyer). In practice, the term “auxiliary” is thus mostly congruent with the term “business partner” or “employee”.

⁷ Generally, the mere granting or accepting of an undue advantage in the private sector (as opposed to active and passive bribery) is not punishable. Article 55 HMG in conjunction with Article 86 HMG stipulate an exception to this rule with a view to natural persons and entities active in the health sector.

⁸ Article 322decies para. 1 lit. b StGB provides that insignificant benefits that are in accordance with common social practice shall not be considered undue advantages. Moreover, Article 322octies para. 2 StGB and Article 322novies para. 2 StGB (on active and passive bribery in the private sector) make the prosecution of minor cases subject to the filing of a criminal complaint by the injured party (see footnote 5). Article 55 para. 2 HMG in conjunction with Art. 3 to 9 VITH declare permissible certain benefits and acts that are not regarded as undue advantages. Article 87 para. 6 HMG leaves it to the discretion of the authorities to prosecute and punish insignificant cases in the health sector.

⁹ Where the company has not undertaken all reasonable organisational measures required to prevent the active bribery (article 102 para. 2 StGB).

¹⁰ Where the partnership has not undertaken all reasonable organisational measures required to prevent the active bribery (article 102 para. 2 StGB).

¹¹ A director may be held criminally liable if he was personally involved in the unlawful act, either actively or passively (i.e. by allowing the conduct to happen in violation of his duty to protect the entity's integrity).

¹² A foreign national domiciled or “ordinarily resident” in the jurisdiction may be held criminally liable if the bribe is committed outside the jurisdiction provided that: (i) the offence is also liable to prosecution at the place of commission or the place of commission is not subject to criminal law jurisdiction; (ii) the person concerned is in Switzerland or is extradited to Switzerland due to the offence; and (iii) under Swiss law extradition is permitted for the offence, but the person concerned is not being extradited (Art. 7 para. 1 StGB).

¹³ Violations of Article 56 HMG qualify as minor offences (so called contraventions). Offenders may be liable to a fine of up to CHF 50,000.

Turkey

Sources of law	Article 8, Article 60, Article 252/1, 9, Article 253 and Article 254 of the Turkish Criminal Code		Article 8, Article 60, Article 252/1, 9, Article 253 and Article 254 of the Turkish Criminal Code	
Offence	Bribing a public official Providing a benefit to a public official or another person at the request of the public official, directly or through an intermediary, for the performance or non-performance of an act relating to his duty.	Being bribed as a public official Ensuring of a benefit by a public official or another person at the request of the public official, directly or through an intermediary, for the performance or non-performance of an act relating to his duty.	Being an Intermediary to Bribery Communicating an offer to or requesting a bribe from the other party, ensuring an agreement for a bribe or ensuring the provision of a bribe.	Being a Benefactor of a Bribe Accepting an indirect benefit from a bribe as the authorised person of a third person or legal entity.
The bribe				
Is there a presumption that any benefit was given / received corruptly?	X	X	X	X
Would facilitation payments be caught?	✓	✓	✓	✓
Would corporate hospitality be caught?	X	X	X	X
Is there any <i>de minimis</i> ?	X	X	X	X
Does the bribe have to be monetary?	X	X	X	X
Public officials				
Does the offence only apply to bribing public officials?	X ¹	✓	X ¹	X ¹
Acts performed outside the Turkey				
Can bribery performed outside Turkey be caught?	✓ ²	✓ ²	✓ ²	✓ ²
Does the act also need to be illegal in the foreign country of performance?	X	X	X	X
Who can be liable				
Turkish national?	✓	✓	✓	✓
Turkish company?	✓	X	✓	✓
Turkish partnership (including limited liability partnership)?	✓	X	✓	✓
Director of Turkish company?	X ³	X	X ³	✓ ³
Turkish company if the bribe is committed abroad by its foreign subsidiary?	X ⁴	X	X ⁴	X ⁴
Foreign subsidiary of a Turkish company if the bribe is committed abroad?	X ²	X	X ²	X ²
Foreign national / company / partnership if the bribe is committed in Turkey?	✓	X	✓	✓
Foreign national domiciled or “ordinarily resident” in Turkey if the bribe is committed outside Turkey?	X ⁵	X	X ⁵	X ⁵
Foreign company / partnership if the bribe is committed abroad?	X ⁵	X	X ⁵	X ⁵
Penalties				
Penalties include:	Individuals — Imprisonment of between four and 12 years — Imprisonment of between two and six years if the bribe is offered but not accepted by the public official or other recipient — Sentences are increased by up to 50% if the offence is committed by a judge, court expert, notary or certified public accountant Legal Entities — Cancellation of permit if operating through a permit obtained from a state institution — Seizure of assets or income		Individuals — Imprisonment of between four and 12 years — Imprisonment of between two and six years if the bribe is offered but not accepted by the public official or other recipient — Sentences are increased by up to 50% if the offence is committed by a judge, court expert, notary or certified public accountant Legal Entities — Cancellation of permit if operating through a permit obtained from a state institution — Seizure of assets or income	
Defences				
Are there any defences available?	✓ If the public official who has received a bribe submits it to the authorities prior to the authorities learning of the matter, the public official will not be penalised for bribery. A public official who has agreed to accept a bribe will also not be penalised if he notifies the authorities prior to the authorities learning of the matter.		✓ If the public official who has received a bribe submits it to the authorities prior to the authorities learning of the matter, the public official will not be penalised for bribery. A public official who has agreed to accept a bribe will also not be penalised if he notifies the authorities prior to the authorities learning of the matter.	

¹ In the case of benefits to persons at the request of a public official.

² If the outcome of bribery occurs in Turkey.

³ If not known or committed by the Director.

⁴ If for the performance or non-performance of an act relating to the Turkish company.

⁵ If for the performance or non-performance of an act relating to Turkey, a Turkish state institution, a Turkish legal entity or a Turkish national.

Ukraine


Source of law		
Law on Prevention of Corruption, Criminal Code of Ukraine, Code on Administrative Offences of Ukraine		
Offence	<p>Criminal offences</p> <ul style="list-style-type: none"> — Receiving a bribe: When a public official; an employee,¹ an officer or a private contractor² of a legal entity; or a public services provider³ accepts an offer to get an unlawful advantage⁴ for him/herself or for a third party; requests an unlawful advantage for him/herself or for a third party; or receives an unlawful advantage for him/herself or for a third party in any form for performance or non-performance of his or her functions in the interests of the person offering or transferring the unlawful advantage or a third party. — Illegal enrichment: When a public official acquires⁵ assets with value that exceeds such official's legal income by more than 6,500 times the tax-free allowance (approximately EUR 208,200). — Extortion (provocation of a bribe): When a public official instigates a person to offer, promise, provide unlawful advantage, or to accept the offer, promise, or rendering of such advantage, with the purpose of subsequently denouncing such person to the competent authorities. — Bribery: Offering, giving or transferring an unlawful advantage to I) a public official; II) an employee,⁶ an officer or a private contractor⁷ of a legal entity; or III) a public services provider⁸ for the performance or non-performance of actions by exercising his or her authority in the interests of the person offering or transferring the unlawful advantage or in the interest of a third party. 	<p>Criminal offences</p> <ul style="list-style-type: none"> — Abuse of powers: When an officer of a legal entity, a public official or a public services provider⁹ abuses their powers, authorities or official position for the obtaining of an unlawful advantage for him/herself or for a third party, if such actions harmed the rights or interests of particular citizens, state or public interests, or interests of legal entities. — Abuse of influence: When a person receives an unlawful advantage for him/herself or a third party for influencing the decision making of a person authorised to exercise state functions or for offering to influence such a decision. When a person offers or gives an unlawful advantage to a person offering or agreeing to influence the making of a decision by a person authorised to exercise state functions or to a third party. — Provision of false information in transparency declaration: Intentional provision of false information¹⁰ in transparency declaration of an official authorised to perform state or local governmental functions or intentional non-submission of transparency declaration.
The bribe		
Is there a presumption that any advantage was given/received corruptly?	X	X
Would facilitation payments be caught?	✓	✓
Would corporate hospitality be caught?	✓ ¹²	✓ ¹²
Is there any <i>de minimis</i> ?	X	X
Does the bribe have to be monetary?	X	X
Public officials		
Does the offence only apply to bribing public officials?	X	X
Acts performed outside Ukraine		
Can bribery performed outside Ukraine be caught?	✓ (if performed by a Ukrainian citizen or person without citizenship domiciled in Ukraine; if performed by a foreigner or person without citizenship in cases prescribed by international treaties or if a serious or especially serious offence against the rights of Ukrainian citizens or the interests of Ukraine is performed; if one of such offences as receiving a bribe, bribing or abuse of influence is performed by a foreigner or person without citizenship jointly with Ukrainian public official)	✓ (if performed by a Ukrainian citizen or person without citizenship domiciled in Ukraine; if performed by a foreigner or person without citizenship in cases prescribed by international treaties or if a serious or especially serious offence against the rights of Ukrainian citizens or the interests of Ukraine is performed; if one of such offences as receiving a bribe, bribing or abuse of influence is performed by a foreigner or person without citizenship jointly with Ukrainian public official)
Does the act also have to be illegal in the foreign country of performance?	X	X
Who can be liable		
Ukrainian national?	✓	✓
Ukrainian company?	✓	✓
Ukrainian Partnership (including limited liability partnership)? ¹⁴	X	X
Director of Ukrainian Company	✓	✓
Ukrainian Company if the bribe is committed abroad by its foreign subsidiary?	X	X
Foreign subsidiary of a Ukrainian company if the bribe is committed abroad?	X	X
Foreign national/company/ partnership if bribe is committed in Ukraine?	✓ (only foreign nationals and companies)	✓ (only foreign nationals and companies)
Foreign national or person without citizenship domiciled in Ukraine if bribe is committed outside Ukraine?	✓	✓
Foreign company / partnership if bribe is committed abroad	X	X

Ukraine (continued 1)

Source of law		
Law on Prevention of Corruption, Criminal Code of Ukraine, Code on Administrative Offences of Ukraine		
Offence	Criminal offences <ul style="list-style-type: none"> — Receiving a bribe: (definition on previous page) — Illegal enrichment: (definition on previous page) — Extortion (provocation of a bribe): (definition on previous page) — Bribery: (definition on previous page) 	Criminal offences <ul style="list-style-type: none"> — Abuse of powers: (definition on previous page) — Abuse of influence: (definition on previous page) — Provision of false information in transparency declaration: (definition on previous page)
Penalties		
Penalties include:	Recipient (public official): <ul style="list-style-type: none"> — Fine of up to 4,000 tax-free allowances¹⁵ (approximately EUR 2,070)¹⁶ — Debarment from certain positions and activities for up to three years — Confiscation of property — Special confiscation¹⁷ — Arrest for up to six months — Imprisonment for up to 12 years Recipient (in case of commercial bribery): <ul style="list-style-type: none"> — Fine of up to 4,000 tax-free allowances (approximately EUR 2,070) — Forced labour for up to two years — Detention for up to three years — Arrest for up to six months — Debarment from certain positions and activities for up to three years — Confiscation of property — Special confiscation — Imprisonment for up to seven years Recipient (public services provider): <ul style="list-style-type: none"> — Fine of up to 4,000 tax-free allowances (approximately EUR 2,070) — Forced labour for up to two years — Detention for up to five years — Arrest for up to six months — Debarment from certain positions and activities for up to three years — Confiscation of property — Special confiscation — Imprisonment for up to eight years Recipient (an employee of a legal entity, a private contractor): <ul style="list-style-type: none"> — Fine of up to 750 tax-free allowances (approximately EUR 390) — Community service for up to 240 hours — Special confiscation — Detention for up to three years — Imprisonment for up to three years Briber (of a public official): <ul style="list-style-type: none"> — Fine of up to 4,000 tax-free allowances (approximately EUR 2,070) — Confiscation of property — Special confiscation — Detention for up to four years — Imprisonment for up to ten years Briber (in case of commercial bribery / of a public services provider): <ul style="list-style-type: none"> — Fine of up to 5,000 tax-free allowances (approximately EUR 2,590) — Community service for up to 200 hours — Special confiscation — Detention for up to four years — Imprisonment for up to four years 	Briber (of an employee of a legal entity, a private contractor): <ul style="list-style-type: none"> — Fine of up to 500 tax-free allowances (approximately EUR 260) — Community service for up to 200 hours — Special confiscation — Forced labour for up to two years — Detention for up to three years — Imprisonment for up to three years Abuse of powers (by a public services provider): <ul style="list-style-type: none"> — Fine of up to 4,000 tax-free allowances (approximately EUR 2,070) — Confiscation of property — Special confiscation — Debarment from certain positions and activities for up to ten years — Detention for up to five years — Imprisonment for up to eight years Abuse of powers (by a public official): <ul style="list-style-type: none"> — Fine of up to 1,000 tax-free allowances (approximately EUR 518) — Arrest for up to six months — Special confiscation — Debarment from certain positions and activities for up to three years — Detention for up to three years — Imprisonment for up to six years Abuse of powers (by an officer of a legal entity): <ul style="list-style-type: none"> — Fine of up to 6,000 tax-free allowances (approximately EUR 3,110) — Arrest for up to six months — Special confiscation — Debarment from certain positions and activities for up to three years — Detention for up to two years — Imprisonment for up to six years Abuse of influence: <ul style="list-style-type: none"> — Fine of up to 5,000 tax-free allowances (approximately EUR 2,590) — Confiscation of property — Special confiscation — Detention for up to five years — Imprisonment for up to eight years Companies (for bribing or for failure to prevent trading in influence, bribing of an officer of a legal entity, a public services provider, a public official): <ul style="list-style-type: none"> — Fine of up to double the amount of an unlawful advantage Public official authorized to perform state or municipal functions who intentionally provides false information or does not submit transparency declaration: <ul style="list-style-type: none"> — Fine of up to 3,000 tax-free allowances (approximately EUR 1,555) — Community service for up to 240 hours — Debarment from certain positions and activities for up to three years — Imprisonment for up to two years
Defences		
Are there any defences available?	<ul style="list-style-type: none"> ✓ There are specific defences if a person who offered, promised or gave an unlawful advantage reported the bribe before the law enforcement authorities found out about the crime from other sources. 	<ul style="list-style-type: none"> ✓ There are specific defences if a person who offered, promised or gave an unlawful advantage reported the bribe before the law enforcement authorities found out about the crime from other sources.

Ukraine (continued 2)

Source of law	Law on Prevention of Corruption, Criminal Code of Ukraine, Code on Administrative Offences of Ukraine
Offence	Administrative offences <ul style="list-style-type: none"> — Violation of legally established restrictions regarding the acceptance of gifts or donations: Violation of legally established restrictions or prohibitions by accepting gifts or donations. — Failure to take action with respect to the prevention of corruption: Failure by a state official, local government official or an officer of a legal entity to take legally established actions to prevent and detect corruption offences. — Violation of restrictions regarding involvement in commercial or other paid activities by a public official: Failure by a public official to comply with legally established prohibitions to perform any other paid work or commercial activity. — Violation of rules for dealing with the conflict of interest: Failure by a public official, an officer of a public legal entity or a public services provider to report, take actions or decisions in the presence of a conflict of interest. — Violation of financial control requirements: Failure by a public official or an officer of a public legal entity to submit a transparency declaration, or provision of false information¹¹ in a transparency declaration, or failure to report the opening of bank accounts outside Ukraine or report substantial changes in the property status of such persons. — Misuse of information obtained in the process of service: Illegal disclosure by a public official or use to his/her own benefit of information obtained in the process of service.
The bribe	
Is there a presumption that any advantage was given/received corruptly?	X
Would facilitation payments be caught?	✓
Would corporate hospitality be caught?	✓ ¹³
Is there any <i>de minimis</i> ?	X
Does the bribe have to be monetary?	X
Public officials	
Does the offence only apply to bribing public officials?	X
Acts performed outside Ukraine	
Can bribery performed outside Ukraine be caught?	X
Does the act also have to be illegal in the foreign country of performance?	X
Who can be liable	
Ukrainian national?	✓
Ukrainian company?	X (only individuals caught)
Ukrainian Partnership (including limited liability partnership)? ¹⁴	X
Director of Ukrainian Company	✓ (applies only to a failure to prevent corruption)
Ukrainian Company if the bribe is committed abroad by its foreign subsidiary?	X
Foreign subsidiary of a Ukrainian company if the bribe is committed abroad?	X
Foreign national/company/ partnership if bribe is committed in Ukraine?	✓ (only foreign nationals)
Foreign national or person without citizenship domiciled in Ukraine if bribe is committed outside Ukraine?	X
Foreign company / partnership if bribe is committed abroad	X
Penalties	
Penalties include:	Recipient in a case of violation of legally established restrictions regarding the acceptance of gifts or donations: <ul style="list-style-type: none"> — Fine of up to 400 tax-free allowances (approximately EUR 207) with confiscation of a gift or a donation — Debarment from certain positions and activities for up to one year Failure to prevent corruption: <ul style="list-style-type: none"> — Fine of up to 400 tax-free allowances (approximately EUR 207) Violation of restrictions regarding involvement into commercial or other paid activities by a public official: <ul style="list-style-type: none"> — Fine of up to 800 tax-free allowances (approximately EUR 414) — Confiscation of illegally obtained profit or remuneration — Debarment from certain positions and activities for up to one year Violation of rules for dealing with the conflict of interest: <ul style="list-style-type: none"> — Fine of up to 800 tax-free allowances (approximately EUR 414) — Debarment from certain positions and activities for up to one year Violation of financial control requirements: <ul style="list-style-type: none"> — Fine of up to 2,500 tax-free allowances (approximately EUR 1,295) — Confiscation of illegally obtained profit or remuneration — Debarment from certain positions and activities for up to one year Illegal use of information obtained in the process of service: <ul style="list-style-type: none"> — Fine of up to 2,500 tax-free allowances (approximately EUR 1,295) — Debarment from certain positions and activities for up to one year
Defences	
Are there any defences available?	X

- 
- ¹ i.e. being neither a public official, nor an officer.
- ² A person providing services or works to a legal entity under a contract.
- ³ A public services provider shall be understood to be an auditor, notary, appraiser or other person who is not a public official but who is conducting a professional activity connected with the provision of public services (including experts, trustees, arbitrators, private enforcement agents etc.).
- ⁴ An unlawful advantage shall be understood as anything of value, tangible or intangible, for the purposes of this brochure
- ⁵ Acquiring shall be understood as obtaining ownership over assets personally or via third parties, or any other possibility to have a right of disposal of assets.
- ⁶ i.e. being neither a public official, nor an officer.
- ⁷ A person providing services or works to a legal entity under a contract.
- ⁸ A public services provider shall be understood to be an auditor, notary, or other person who is not a public official but who is conducting a professional activity connected with the provision of public services (including experts, trustees, arbitrators, private enforcement officers etc.).
- ⁹ A public services provider shall be understood to be an auditor, notary, appraiser, officer of the Deposit Guarantee Fund or other person who is not a public official but who is conducting a professional activity connected with the provision of public services (including experts, trustees, arbitrators, state and private enforcement officers etc.).
- ¹⁰ For the purposes of criminal liability, the information is false if the value stated in a transparency declaration differs from the real value by more than 250 minimal costs of living (approximately EUR 15,450).
- ¹¹ For the purposes of administrative liability, the information is false if the value stated in a transparency declaration differs from the real value by more than 100 and less than 250 minimal costs of living (approximately EUR 6,180 – 15,450).
- ¹² There is no threshold. Criminal liability may arise if non-monetary characteristics of bribe are present (e. g. expectation for a certain action from a public official, an employee or an officer of a legal entity, a person working for a legal entity; a public services provider etc.)
- ¹³ 1. The corporate hospitality (donation) should not violate legally established restrictions or prohibitions regarding the acceptance of gifts and donations by public officials.
2. The value of the corporate hospitality (donation) received by an official may not exceed one minimal cost of living (approximately EUR 65) for a one-off hospitality (donation) or two minimal costs of living for a working person (approximately EUR 124) cumulatively for hospitality (donations) received from one person within one calendar year.
- ¹⁴ Ukrainian legislation does not recognize a partnership as a form of conducting business.
- ¹⁵ Tax-free allowance is the basis for both offence qualification and calculation of penalties. However, the amounts of tax-free allowance differ for these two purposes.
As of 08 September 2020 the tax-free allowance for the purposes of offence qualification equals to approximately EUR 32, and the tax-free allowance for the purposes of calculation of penalties equals to approximately EUR 0.5.
- ¹⁶ The penalties are calculated in EUR based on official currency exchange rates established by the National Bank of Ukraine on 08 September 2020, i.e. EUR 1 = UAH 32.18
- ¹⁷ Special confiscation is a forced, free of charge withdrawal of funds, valuables and/or property in favour of the state, performed under a court decision. Special confiscation is applied to the funds, valuables and/or property which (i) were obtained as a result of a crime and/or were earned using such funds, valuables and/or property; (ii) were used or supposed to be used for instigating a person to commit a crime; or for financing or facilitating a crime; or as remuneration for committing a crime; (iii) were subject of a crime (except for a property returned to the legitimate owner); or (iv) were sought out, produced, adapted or used as crime instruments (except for a property returned to the legitimate owner). Special confiscation may be applied to the funds, valuables and/or property owned by a third party if such funds, valuables and/or property were transferred to the third party to avoid special confiscation.

United Kingdom

Source of law	The Bribery Act 2010 (in force from 1 July 2011)	
Offence	General Offence Bribing (s1) Offering or giving a financial or other advantage to a person: <ul style="list-style-type: none"> — intending to induce them, or another, improperly to perform a public function or business activity, or as a reward for the same; or — knowing or believing the acceptance would in itself constitute improper performance. 	General Offence Being bribed (s2) <ul style="list-style-type: none"> — Requesting or accepting an advantage intending personally or through another, improperly to perform a public function or business activity, or as a reward for the same; — Requesting or accepting such advantage when the request or acceptance would itself constitute an improper performance of a public function or business activity; or — Improperly performing such a function or activity in anticipation of receiving such an advantage.
The bribe		
Is there a presumption that any advantage was given/received corruptly?	X	X
Would facilitation payments be caught?	✓	✓
Would corporate hospitality be caught?	Depends on intent	Depends on intent
Is there any <i>de minimis</i> ?	X	X
Does the bribe have to be monetary?	X	X
Public officials		
Does the offence only apply to bribing public officials?	X	X
Acts performed outside UK		
Can bribery performed outside UK be caught?	✓ (if committed by a British national, or resident, a national of a British overseas territory or a body incorporated in the UK)	✓ (if committed by a British national, or resident, a national of a British overseas territory or a body incorporated in the UK)
Does the act also need to be illegal in the foreign country of performance?	X	X
Who can be liable		
UK National?	✓	✓
UK company?	✓	✓
UK partnership (including limited liability partnership)?	✓ ²	✓
Director of UK company?	✓ (either directly or if the Director consented or connived in an offence committed by the company ³)	✓ (either directly or if the Director consented or connived in an offence committed by the company)
UK company if the bribe is committed abroad by its foreign subsidiary?	X	X
Foreign subsidiary of a UK company if the bribe is committed abroad?	X	X
Foreign national / company / partnership if bribe is committed in UK?	✓	✓
Foreign national domiciled or “ordinarily resident” in UK if bribe is committed outside UK?	✓	✓
Foreign company / partnership if bribe is committed abroad?	X	X
Penalties		
Penalties include:	Individuals <ul style="list-style-type: none"> — Imprisonment for up to ten years — Unlimited fine Companies <ul style="list-style-type: none"> — Unlimited fine — Debarment from public contracts — A confiscation order under the Proceeds of Crime Act 2002 (POCA) 	Individuals <ul style="list-style-type: none"> — Imprisonment for up to ten years — Unlimited fine Companies <ul style="list-style-type: none"> — Unlimited fine — Debarment from public contracts — A confiscation order under POCA
Defences		
Are there any defences available?	X	X

United Kingdom (continued)

Source of law		
The Bribery Act 2010 (in force from 1 July 2011)		
Offence	Bribing a foreign public official (s6) Offering or giving to (or with the assent of) a foreign public official any advantage that is neither permitted nor required by the written law applicable to that official intending to: <ul style="list-style-type: none"> — to influence them in their capacity as a foreign public official and — obtain or retain business or a business advantage. 	Corporate offence (s7) A company or partnership failing to prevent bribery (under s1 or 6) committed anywhere in the world by a person performing services on its behalf intending to obtain or retain business or a business advantage for the company/partnership UNLESS adequate procedures were in place designed to prevent the bribery.
The bribe		
Is there a presumption that any advantage was given/received corruptly?	X	X
Would facilitation payments be caught?	✓	✓
Would corporate hospitality be caught?	✓ ¹	Depends on intent
Is there any <i>de minimis</i> ?	X	X
Does the bribe have to be monetary?	X	X
Public officials		
Does the offence only apply to bribing public officials?	✓	X
Acts performed outside UK		
Can bribery performed outside UK be caught?	✓ (if committed by a British national, or resident, a national of a British overseas territory or a body incorporated in the UK)	✓ (if the defendant company or partnership is incorporated, or "carries on a business, or part of a business" in any part of the UK)
Does the act also need to be illegal in the foreign country of performance?	X	X
Who can be liable		
UK National?	✓	X (only corporates and partnerships can be liable)
UK company?	✓	✓
UK partnership (including limited liability partnership)?	✓	✓
Director of UK company?	✓ (either directly or if the Director consented or connived in an offence committed by the company)	X
UK company if the bribe is committed abroad by its foreign subsidiary?	X	✓ (if the subsidiary is performing services on the UK company's behalf and the bribe was made with the intention of obtaining or retaining business or a business advantage for the parent)
Foreign subsidiary of a UK company if the bribe is committed abroad?	X	✓ (if the company "carries on a business, or part of a business" in any part of the UK)
Foreign national / company / partnership if bribe is committed in UK?	✓	✓ (not foreign nationals)
Foreign national domiciled or "ordinarily resident" in UK if bribe is committed outside UK?	✓	X
Foreign company / partnership if bribe is committed abroad?	X	✓ (if the company "carries on a business, or part of a business" in any part of the UK)
Penalties		
Penalties include:	Individuals <ul style="list-style-type: none"> — Imprisonment for up to ten years — Unlimited fine Companies <ul style="list-style-type: none"> — Unlimited fine — Debarment from public contracts — A confiscation order under POCA 	Companies <ul style="list-style-type: none"> — Unlimited fine — Debarment from public contracts⁴ — A confiscation order under POCA
Defences		
Are there any defences available?	X	✓ (it is a defence for the corporate to show that it had in place "adequate procedures" designed to prevent bribery on its behalf) ⁵

¹ Unlike the other offences, the offence of bribing a foreign public official does not require "impropriety" as part of the wrongful act, but only that the advantage is given in order to "influence". Clearly, corporate hospitality is intended to influence the recipient to look favourably on the giver of the hospitality. Therefore, the legislation relies on prosecutorial discretion with respect to corporate hospitality given to foreign public officials.

² "Person" is not defined but under s5 and 11 of the Interpretation Act 1978, "person" is to be construed as extending to "a body of persons corporate or unincorporate".

³ If no act or omission which forms part of the offence by the company took place in the UK, the Director or senior officer must have a "close connection" with the UK i.e. by being a British national or resident, or a national of a British overseas territory.

⁴ The Government has indicated that such a conviction would not automatically trigger debarment but it remains a discretionary penalty.

⁵ Adequate procedures, in line with Government guidance published in March 2011, should heed six broad principles which are (1) proportionality, (2) commitment to an anticorruption culture from the senior management of the organisation, (3) assessment of possible risks, (4) due diligence on parties dealt with in the course of business, (5) communication and training on procedures and policies and (6) monitoring and review of the same.

Oman

Source of law		Royal Decree No. 112/2011 “The Law for the Protection of Public Funds and Avoidance of Conflicts of Interest”, as amended (the Anti-Corruption Law) Royal Decree No. 7/2018 (the Penal Code)
Offence		<p>Definition of “Public Official” (Article 10 of the Penal Code) Means (a) every person holding a government position; (b) members of Majlis Oman and members of municipal councils; (c) every person assigned a specific task by a competent public authority within the limits of his assignment; (d) representatives of the Government in companies, and employees of companies wholly owned by the Government of those to which the Government contributes more than forty per cent (40%) of its capital; and (e) members of the boards of directors of Omani civil associations of public benefit.</p> <p>Accepting a bribe (Article 207 of the Penal Code) Any Public Official who accepts a bribe for her/himself or on behalf of another person, be it either money, a gift, promise or any other advantage, in order to accomplish an act pertaining to her/his function, or to abstain from accomplishing it or propose its accomplishment.</p> <p>Demanding a bribe (Article 208 of the Penal Code) A Public Official demands a bribe for themselves to carry out an act contrary to her/his duties or to abstain from implementing an act inherent to his function.</p> <p>Accepting a bribe after the fact (Article 209 of the Penal Code) A Public Official who accepts a bribe after implementing the act expecting by the briber.</p> <p>Offering a bribe (Article 211 of the Penal Code) Any person offering or inducing any Public Official to accept or demand any bribe.</p>
The bribe		
Is there a presumption that any advantage was given/received corruptly?		X
Would facilitation payments be caught?		✓
Would corporate hospitality be caught?		✓
Is there any <i>de minimis</i> ?		X
Does the bribe have to be monetary?		X
Public officials		
Does the offence only apply to bribing public officials?		X ¹
Acts performed outside Oman		
Can bribery performed outside Oman be caught?		✓ ²
Does the act also need to be illegal in the foreign country of performance?		X
Who can be liable		
Omani national?		✓
Omani company?		X ³
Omani partnership (including limited liability partnership)?		X
Director of an Omani company?		✓
Omani company if the bribe is committed abroad by its foreign subsidiary?		X
Foreign subsidiary of an Omani company if the bribe is committed abroad?		X
Foreign national / company / partnership if the bribe is committed in Oman?		✓
Foreign national domiciled or “ordinarily resident” in Oman if the bribe is committed outside Oman?		✓ ⁴
Foreign company / partnership if the bribe is committed abroad?		X
Penalties		
Penalties include:		<p>Accepting a Bribe (Article 207 of the Penal Code): — a period of imprisonment of between 3 years and 10 years; — a fine of no less than the value of what was given or promised to receive; — dismissal from their position as a Public Official; and — permanent prohibition from working as a Public Official in Oman.</p> <p>Demanding a Bribe (Aarticle 208 of the Penal Code): — a period of imprisonment of between 3 years and 10 years; — a fine of no less than the value of what was given or promised to receive; — dismissal from their position as a Public Official; and — permanent prohibition from working as a Public Official in Oman.</p> <p>Accepting a bribe after the fact (Article 209 of the Penal Code): a period of imprisonment of no more than 3 years and fine equivalent to the value of the bribe accepted.</p> <p>Offering a Bribe (Article 211 of the Penal Code): a period of imprisonment of not more than 3 years if an attempt is made to bribe a Public Official who refuses it.</p>
Defences		
Are there any defences available?		X



¹ Anti-Corruption laws in Oman extend to individuals in respect of their work in and with private companies only where (i) Omani government bodies or Omani Public Officials hold at least 40% of the shares or (ii) there are commercial dealings with Omani government bodies or Omani Public Officials. The Penal Code also defined a Public Official as any of the following: (a) every person holding a government position; (b) members of Majlis Oman and members of municipal councils; (c) every person assigned a specific task by a competent public authority within the limits of his assignment; (d) representatives of the Government in companies, and employees of companies wholly owned by the Government of those to which the Government contributes more than forty per cent (40%) of its capital; and (e) members of the boards of directors of Omani civil associations of public benefit.

² Provided such act of bribery affects and/or involves an Omani Public Official.

³ Anti-corruption laws in Oman apply to natural persons only.

⁴ Only where the bribe affects a public official in Oman.

Saudi Arabia

Sources of law		Combatting Bribery Law issued by Royal Decree No. M/36 dated 29/12/1412H (corresponding to 30/6/1992) (CBL) ¹ . Other major legislation contributes to the general anti-corruption legal framework, namely (i) Saudi Civil Service Law issued by Royal Decree No. M/49 dated 10/7/1397H (corresponding to 26/6/1977); (ii) National Anti-Corruption Commission Law issued by the Council of Ministers Resolution No. 165 dated 28/5/1432H (corresponding to 2/5/2011); and (iii) the National Strategy for Protecting Honesty and Combatting Corruption implemented by the Council of Ministers Resolution No. 43 dated 1/2/1428AH (corresponding to 19/2/2007). The Kingdom of Saudi Arabia has also ratified the United Nations' Convention against Corruption on 29/4/2013 ² .	
Offence	General Offences: A public official is deemed to have been bribed, and is subject to the penalties set out in the CBL, when he accepts, receives or solicits a promise or an offer ³ , for himself or for a third party, to: — perform (or fail to perform) an act deemed to form part of his functions or duties (or that he claims to fall within his functions), even where the act is lawful; — violate his duties or to be remunerated for his actions (even in the absence of a prior agreement); — use his influence to obtain or attempt to obtain from any public authority any act, order, decision, commitment, authorisation, import agreement, job, service or any kind of advantage; — follow up, due to his function, on any formality when none of the above offences apply. Bribers, intermediaries and accessories are also subject to the same penalties set out in the CBL for each of the abovementioned offences. The offence remains punishable even if the offered bribe was not accepted.		
The bribe			
Is there a presumption that any advantage was given/received corruptly?	X		
Would facilitation payments be caught?	✓ ⁴		
Would corporate hospitality be caught?	✓ ⁵		
Is there any <i>de minimis</i> ?	X		
Does the bribe have to be monetary?	✓ ⁶		
Public officials			
Does the offence only apply to bribing public officials?	✓ ⁷		
Acts performed outside your jurisdiction	Bribing	(Public Official) Being Bribed	
Can bribery performed outside Saudi Arabia be caught?	X ⁸	X ⁹	
Does the act also need to be illegal in the foreign country of performance?	X	X	
Who can be liable			
Saudi national?	✓		
Saudi company?	✓		
Saudi partnership (including limited liability partnership)?	✓		
Director of Saudi company?	✓		
Saudi company if the bribe is committed abroad by its foreign subsidiary?	X ¹⁰		
Foreign subsidiary of a Saudi company if the bribe is committed abroad?	X		
Foreign national / company / partnership if bribe is committed in Saudi Arabia?	✓		
Foreign national domiciled or "ordinarily resident" in Saudi Arabia if the bribe is committed outside Saudi Arabia?	✓		
Foreign company / partnership if bribe is committed abroad?	X		
Penalties			
Penalties include:	Individuals: — Imprisonment of up to ten years — Fine of up to SAR 1m ¹¹ Companies: — Fine of up to ten times the amount of the bribe — Prohibition from entering into government contracts (subject to Council of Ministers reconsideration after five years as of the date of the judgment)		
Defences			
Are there any defences available?	Briber and intermediary are exempted from criminal liability if they inform the authorities before the offence is discovered.		



¹ The CBL constitutes the main source of law as it directly addresses the offences (i.e. passive and active bribery).

² Irrespective of the legal instruments setting out the overall anti-corruption framework in Saudi Arabia, a newly issued Royal Order No.38/A dated 15/2/1439AH (corresponding to 5/11/2017) established the Supreme Committee chaired by the Crown Prince and having as members: (i) the Chairman of the Monitoring and Investigation Commission; (ii) the Chairman of the National Anti-Corruption Authority; (iii) the Chief of the General Audit Bureau (iv) the Attorney General; and (v) the Head of State Security. This Supreme Committee is vested with extensive powers in combatting corruption while being exempt from the application of any laws, regulations, instructions, orders and decisions when carrying out these authorities.

³ Article 12 CBL defines 'Promise or Offer' as any benefit or privilege of any kind whatsoever whether material or immaterial.

⁴ There are no statutory provisions that explicitly address facilitation payments. However, given the broad definition of 'Promise or Offer' (see footnote 3), facilitation payments could be considered as a bribe pursuant to the CBL.

⁵ There are no statutory provisions that explicitly address corporate hospitality. However, given the broad definition of 'Promise or Offer' (see footnote 3), corporate hospitality could be considered as a bribe pursuant to the CBL.

⁶ See footnote 3.

⁷ Article 8 CBL provides a broad definition of the term 'Public Official' to include individuals working with companies or individual establishments (i.e. sole proprietorships) that operate and manage or maintain utilities, or undertake a public service; and individuals working with companies to which the government contributes capital, or companies or individual establishments carrying out banking activities.

⁸ There are no specific legal provisions regulating this matter. However, we consider that the bribery may be caught in Saudi Arabia only if the briber was a Saudi national.

⁹ There are no specific legal provisions addressing this issue. It is likely that a public official who commits a criminal offence pursuant to the CBL, may be prosecuted even if such offence is committed outside Saudi Arabia.

¹⁰ Article 19 CBL stipulates that a company is subject to the penalties set out in this article when its manager has or any of its staff members have been found guilty of any offence stipulated in the CBL if it was proven that the offence was committed for the company's benefit. The CBL limited a company's criminal liability to the acts of its manager or any its members of staff, and it did not extend to the acts of a company's subsidiaries (whether local or foreign).

¹¹ Lesser penalties are imposed when the public official accepts, receives or solicits a promise or an offer, for himself or for a third party, to follow up, due to his function, on any formality (when none of the other offences apply); in this case, the penalties consist of imprisonment of up to two years and/or a fine of up to SAR50,000.

United Arab Emirates

Sources of law		
UAE Federal Law No.3/1987 (as amended by Federal Law No.34/2005, Federal Law No.52/2006, Federal Decree-Law No.7/2016, Federal Decree-Law No.9/2016, Federal Decree-Law No.24/2018 and Federal Decree-Law No.4/2019 (the Penal Code) ¹		
Offence	<p>Public Bribery (Articles 234, 236, 237 & 237/1 237/2 of the Penal Code)</p> <p>Passive Public Bribery²</p> <p>Individual public servant</p> <p>Applies to any public servant or a person entrusted with a public service or a foreign public servant or an employee of an international organisation, requesting or accepting or taking, whether directly or indirectly, a gift, a benefit, or other grant that is not due, or who is promised any of the above, whether for the benefit of the employee or for the benefit of another person, entity or establishment, in order for the employee to commit or omit to do an act included in his duties, or not to comply with the obligations of his office, even if he had intended not to commit or omit to do such an act, or if the request not to comply with the obligations of his office, or, acceptance or obtainment is made after the fulfilment or omission of the act, of the failure to comply with the obligations of his office.</p> <p>Active Public Bribery</p> <p>Applies to the promising, offering, or giving to a public servant or a person entrusted with a public service, a foreign public servant or an employee of an international organisation, a gift, a benefit or a grant that is not due, either directly or indirectly, and whether for the benefit of the employee or for the benefit of another person or entity, in order for the employee to commit or omit to do such an act included in his duties against the obligations of his office.</p>	<p>Public Bribery (Articles 234, 236, 237 & 237/1 237/2 of the Penal Code)</p> <p>Abuse of Power</p> <p>Applies to the promising, offering, granting, or giving, either directly or indirectly, a public servant or any other person a gift, a benefit or a grant that is not due to abet that public officer or person to abuse his power, whether actual or presumed, in order to obtain, from a public department, an unlawful benefit for the benefit of the original abettor of the act or for the benefit of any other person.</p> <p>There is also an offence where a public servant or any other person requests or accepts (rather than offers etc) a benefit, gift or grant that is not due, whether for himself or for another person, either directly or indirectly, in order for that public servant or person to abuse their power, whether actual or presumed, in order to obtain, from a public department or authority, an unlawful benefit.</p> <p>Intermediary offence</p> <p>It is an offence to act as an intermediary between the giver and recipient of a bribe when offering, requesting, accepting, receiving, or promising a bribe.</p>
The bribe		
Is there a presumption that any advantage was given/received corruptly?	X	X
Would facilitation payments be caught?	✓	✓
Would corporate hospitality be caught?	✓	✓
Is there any <i>de minimis</i> ?	X	X
Does the bribe have to be monetary?	X	X
Public officials		
Does the offence only apply to bribing public officials?	✓	✓
Acts performed outside the UAE		
Can bribery performed outside the UAE be caught?	✓ If the criminal or the victim is a UAE citizen, or if the crime is committed by an employee of the UAE public or private sector, or involving UAE public property.	✓ If the criminal or the victim is a UAE citizen, or if the crime is committed by an employee of the UAE public or private sector, or involving UAE public property.
Does the act also need to be illegal in the foreign country of performance?	✓	✓
Who can be liable		
UAE national?	✓	✓
UAE company?	✓ ³	✓ ³
UAE partnership (including limited liability partnership)?	✓	✓
Director of a UAE company?	✓ ⁴	✓ ⁴
UAE company if the bribe is committed abroad by its foreign subsidiary?	X ⁵	X ⁵
Foreign subsidiary of a UAE company if the bribe is committed abroad?	X	X
Foreign national / company / partnership if bribe is committed in the UAE?	✓	✓
Foreign national domiciled or "ordinarily resident" in the UAE if the bribe is committed outside the UAE?	✓ ⁶	✓ ⁶
Foreign company / partnership if the bribe is committed abroad?	X	X

United Arab Emirates (continued 1)

Penalties		
Penalties include:	<ul style="list-style-type: none"> — A fine equal to what is requested, offered or accepted, but no less than AED 5,000. — Confiscation of the gift accepted by or offered to a public servant or person entrusted with a public service. — Imprisonment as follows: <ul style="list-style-type: none"> • Passive Public Bribery – temporary imprisonment (there is no specification as to length) • Active public bribery – up to five years imprisonment • Abuse of Power – up to five years imprisonment (both the briber and the public servant) • Intermediary – up to five years imprisonment 	<ul style="list-style-type: none"> — A fine equal to what is requested, offered or accepted, but no less than AED 5,000. — Confiscation of the gift accepted by or offered to a public servant or person entrusted with a public service. — Imprisonment as follows: <ul style="list-style-type: none"> • Passive Public Bribery – temporary imprisonment (there is no specification as to length) • Active public bribery – up to five years imprisonment • Abuse of Power – up to five years imprisonment (both the briber and the public servant) • Intermediary – up to five years imprisonment
Defences		
Are there any defences available?	The briber or intermediary taking the initiative to report the crime to the judicial or administrative authorities, before it is discovered, shall be exempted from any penalty.	The briber or intermediary taking the initiative to report the crime to the judicial or administrative authorities, before it is discovered, shall be exempted from any penalty.

United Arab Emirates (continued 2)

Sources of law	
UAE Federal Law No.3/1987 (as amended by Federal Law No.34/2005, Federal Law No.52/2006, Federal Decree-Law No.7/2016, Federal Decree-Law No.9/2016, Federal Decree-Law No.24/2018 and Federal Decree-Law No.4/2019 (the Penal Code) ¹	
Offence	<p>Private Bribery (Article 236/1 and 2 of the Penal Code)</p> <p>Passive Private Bribery Applies to any person managing an entity or establishment in the private sector, or who is employed by him in any capacity, requesting or accepting, whether directly or indirectly, any undeserved gift, a privilege, a grant that is not due or is promised any of the above, whether for the benefit of himself or for another person, in return for the performance of or the refrainment from the performance of his duties or defaulting on his duties, even if he had in mind not to effect the act or not to refrain from it, or if the demand or acceptance or promise comes after the performance of the act or the refrainment from the performance of it.</p> <p>Active Private Bribery Any person promising another person managing an entity or establishment in the private sector, or who is employed by him in any capacity, with a gift, a benefit, a grant that is not due or offering or granting any of the above, either directly or indirectly, whether for his benefit or for the benefit of another, in order for that person to perform or omit to perform an act that is included in his duties or constitutes a violation of those duties.</p>
The bribe	
Is there a presumption that any advantage was given/received corruptly?	X
Would facilitation payments be caught?	✓
Would corporate hospitality be caught?	✓
Is there any <i>de minimis</i> ?	X
Does the bribe have to be monetary?	X
Public officials	
Does the offence only apply to bribing public officials?	X
Acts performed outside the UAE	
Can bribery performed outside the UAE be caught?	✓ If the criminal or the victim is a UAE citizen, or if the crime is committed by an employee of the UAE public or private sector, or involving UAE public property.
Does the act also need to be illegal in the foreign country of performance?	✓
Who can be liable	
UAE national?	✓
UAE company?	✓
UAE partnership (including limited liability partnership)?	✓
Director of a UAE company?	✓
UAE company if the bribe is committed abroad by its foreign subsidiary?	✓
Foreign subsidiary of a UAE company if the bribe is committed abroad?	X
Foreign national / company / partnership if bribe is committed in the UAE?	✓
Foreign national domiciled or "ordinarily resident" in the UAE if the bribe is committed outside the UAE?	✓
Foreign company / partnership if the bribe is committed abroad?	X
Penalties	
Penalties include:	<ul style="list-style-type: none"> — A fine equal to what is requested, offered or accepted, but no less than AED 5,000. — Imprisonment of up to five years for both passive and active private bribery
Defences	
Are there any defences available?	The briber or intermediary taking the initiative to report the crime to the judicial or administrative authorities, before it is discovered, shall be exempted from any penalty.

¹ UAE laws are issued in Arabic as the official language of the UAE, however it can be very difficult to make exact translations into English, particularly where there are no equivalent words or phrases. Note, that in any action brought under the legislation it will be the official Arabic version of the law that would be determinative and the UAE courts' interpretation of the Arabic. Court cases are not always reported or publically available, and when reported are reported in the Arabic language, therefore certainty around enforcement and interpretation of the law can be difficult to obtain. We have used a generally accepted English translation of the Penal Code to prepare this table and in the case of uncertainty and inconsistency have referred back to the Arabic version of the law.

² Note, that officials are subject to additional obligations that govern their behaviour (for example, including under Federal Civil Service Law (Law No.21/2001), Federal Human Resources Law (Federal Decree-Law 11/2008), local legislation in Abu Dhabi (the Abu Dhabi Civil Service Law (Abu Dhabi Law No. 1/2006) and Abu Dhabi Human Resources Law (Abu Dhabi Law No.6 /2016) and in Dubai (the Dubai Government Human Resources Management Law (Dubai Law No. 27/2006)) each as amended).

³ A corporation, partnership or other legal person can be criminally liable for the acts of their representatives, directors and/or agents. However, government services and its official departments, public organisations and institutions are specifically excluded from this provision.

⁴ A director can be liable for his own acts. In addition, a director can be liable to the company for any of its acts that contravene UAE law (UAE Companies Law (UAE Federal Law No. 2/2015)).

⁵ However, take into account possible breaches where the director(s) of a UAE Parent and foreign subsidiary are the same and such director(s) reside in the UAE.

⁶ The legislation does not specifically deal with this, however, we are of the view that if there was sufficient nexus to the UAE (e.g. the individuals are acting on behalf of a UAE based business) then the UAE courts may take jurisdiction and apply the UAE Penal code appropriately.

South America

Brazil	89
Chile	91
Colombia	94
Mexico	96
Peru	99

Brazil

Source of law	Anti-Corruption Law on the Liability of Legal Entities (Law n. 12, 846/2013) ¹ . Decree 8,420/2015 ² The Criminal Code (Act n. 2.848, from 7 December 1940) ^{3,4} .	
Offence	Anti-Corruption Law on the Liability of Legal Entities The following are civil offences: <ul style="list-style-type: none">— Active Bribery (Article 5(i)): “Promising, offering or giving, directly or indirectly, any undue advantage to a public agent or any third party related to him or her.”— Sponsoring (Article 5(ii)): “Financing, paying, sponsoring or subsidising in any other manner the commission of any of the illicit acts set out in the law.”— Concealment (Article 5(iii)): “Employing a person or legal entity for the purpose of concealing or disguising any of the illicit acts set out in the law”.— Various Illicit Acts in Connection with Public Procurement and Concessions (Article 5(iv)): “Frustrate, commit fraud, impede, disturb, force the withdrawal of a bidder, fraudulently incorporate a bidding entity in connection with public procurement, or manipulate or commit a fraud in respect of contracts entered into with Public Administration”.— Obstructing Investigations (Article 5(v)): “Hampering or obstructing any investigative or fiscal activities of public bodies, public entities or public officials”.	
	The Criminal Code <ul style="list-style-type: none">— Active Bribery (Article 333): “Offering or promising an undue advantage to a public official to induce him / her to perform, omit or delay an official act.”— Passive Bribery (Article 316): “To demand an undue advantage, for oneself or for another person, directly or indirectly, even outside the function of a public official or before being appointed as such, but doing so because of one’s position.”— Passive Bribery (Article 317): “Requesting or receiving, for oneself or for another person, directly or indirectly, even outside the function of a public official or before being appointed as such, but doing so because of one’s position, an undue advantage, or accepting a promise of such advantage.”— Traffic of Influence (Article 332): “Requesting, requiring, charging or obtaining, for oneself or for another person, an advantage or promise of advantage in exchange for influencing an act carried out by a public official in the exercise of his / her functions.”— Active Bribery in an International Business Transaction (Article 337-B): “Promising, offering, or giving, directly or indirectly, any improper advantage to a foreign public official or to a third person, in order for him / her to put into practice, to omit, or to delay any official act relating to an international business transaction.”— Traffic of Influence in an International Business Transaction (Article 337-C): “Requesting, requiring, charging, or obtaining, for oneself or for another person, directly or indirectly, any advantage or promise of advantage in exchange for influencing an act carried out by a foreign public official in the exercise of his functions relating to an international business transaction.”	
The bribe		
Is there a presumption that any advantage was given/received corruptly?		X
Would facilitation payments be caught?		✓
Would corporate hospitality be caught?		✓
Is there any <i>de minimis</i> ?		X
Does the bribe have to be monetary?		X
Public officials		
Does the offence only apply to bribing public officials?		✓
Acts performed outside Brazil		
Can bribery performed outside Brazil be caught?		✓
Does the act also need to be illegal in the foreign country of performance?		X
Who can be liable		
Brazilian national?		✓
Brazilian company?		✓ ⁵
Brazilian partnership (including limited liability partnership)?		✓ ⁶
Director of Brazilian company?		✓ (the director can be held criminally liable whilst the Brazilian company can be subject to civil sanctions)
Brazilian company if the bribe is committed abroad by its foreign subsidiary?		✓
Foreign subsidiary of a Brazilian company if the bribe is committed abroad?		✓
Foreign national/company/partnership if the bribe is committed in Brazil?		✓ (individuals will be subject to criminal sanctions whilst legal entities will be subject to civil sanctions)
Foreign national domiciled or “ordinarily resident” in Brazil if bribe is committed outside Brazil?		✓ ⁷ (subject to the conditions mentioned in Article 7, I, “b” and “c”, II, “a”, and §2° of the Brazilian Criminal Code) ⁸
Foreign company/partnership if the bribe is committed abroad?		X

Brazil (continued)

Penalties	
Penalties include:	<ul style="list-style-type: none"> — Individuals can face imprisonment of up to 12 years and fines — Legal entities cannot be held criminally liable. However, pursuant to the Anti-Corruption Law, Brazilian and foreign legal entities (and their respective affiliates and successors) can be subject to severe civil sanctions (on a strict liability basis) including: (i) penalties between 0.1 % and 20 % of the corporate entity's gross annual turnover in the year prior to the commission of the offence. Where it is not possible to calculate the gross annual turnover, a fixed fine of up to BRL 60m (circa USD 26m) is imposed; (ii) an order barring the entity from receiving public grants or incentives for up to five years or permanently prohibiting it from undertaking specific economic activities; (iii) an order dissolving the entity; (iv) confiscation of assets or rights acquired through the illicit act and the obligation to pay damages; and (v) publication of the offence in an official registry
Defences	
Are there any defences available?	<ul style="list-style-type: none"> — No defences apply in respect of criminal liability of individuals — With respect to the civil liability of legal entities, it is not possible to benefit from complete exemption. However; (i) there is a leniency regime in place whereby entities may obtain reductions of up to 2 / 3 of the applicable penalties; and (ii) the Anti-Corruption Law sets out several mitigating circumstances including whether the entity has implemented an anticorruption system at an organisational level, the value of the contracts in question and the severity of the damage caused by the offence

¹ The Law was enacted on 1 August 2013, came into effect on 29 January 2014 and is known as the 'Clean Company Act'.

² This provides further regulation for the Clean Company Act including further regulations on (i) administrative liability, (ii) the calculation of fines, (iii) the leniency regime, (iv) compliance programmes, and (v) the official list of suspended and debarred companies and the official list of punished companies.

³ The Brazilian National Congress is currently analysing a new bill (Project of Law – "PL"). PL n.236 / 2012 – "Code", which would criminalise private bribery and impose criminal liability on companies where crimes are committed against the Public Administration (active bribery, traffic of influence), Economic Order, the Financial System and the Environment. Companies could face fines, debarment from public contracts, rendering of community service, confiscation of assets, and temporary or permanent winding-up.

⁴ Under the current Brazilian Criminal Code, criminal liability is personal; only individuals may be convicted of crimes and companies cannot be held liable for the criminal behaviour of their executives. The current Criminal Code does not have any provisions on private bribery.

⁵ The civil sanctions in the Anti-Corruption Law apply but the criminal sanctions from the Criminal Code do not.

⁶ A Partnership, in Brazil, is known as a 'Sociedade em nome coletivo' (Article 1.039 of the Brazilian Civil Code) and the equivalent to a limited liability partnership is known as a 'Sociedade em comandita simples' (Article 1.045 of the Brazilian Civil Code). Although not commonly adopted in the country, both types of partnerships are considered as legal entities. Consequently, they cannot be liable for criminal offences.

⁷ If an individual acts on behalf of a Brazilian company or its affiliates, the company in question can be subject to civil sanctions even if the act was committed abroad.


⁸ The act of bribery may be subject to Brazilian law, even if committed in a foreign territory, by virtue of international treaties to which Brazil is a party. Where this is the case, the Brazilian law conditions require, inter alia, that the act carried out by the foreign national is illegal in the country where it was carried out; there is an extradition treaty in place; and the foreign national enters Brazil (and is caught). Please note, however, that where the act of bribery breaches the Brazilian rules and is against Brazilian property or the Brazilian public administration, the individual will be liable under Brazilian law without any need to satisfy these conditions or consider international treaties.

Chile

Source of law	Criminal Code	Criminal Code
Offence	Bribery committed by a public official (Articles 248, 248 bis and 249) Requesting to receive or accepting: <ul style="list-style-type: none"> — greater payments than those that are usually acceptable by a person in such position or requesting an economic benefit for himself or a third party to perform an act, or for having already performed an act in the exercise of his duties, for which no payments are usually permitted. — an economic benefit for himself or for a third party to omit from acting or for having already omitted to act in the exercise of his duties, or to perform or for having already performed an act in violation of the duties of his office. — an economic benefit for himself or for a third party to commit a serious crime or misdemeanour as a public official in the performance of his duties, or torture or other cruel, inhuman or degrading treatment caused by public officials to the rights guaranteed by the Constitution. — an economic or other benefit to which he is not entitled, for himself or for a third party, by reason of his position. Exerting influence on another public employee in order to obtain from him a decision that may generate a benefit for an interested third party.	Bribery of a public officer committed by a private natural person (Articles 250, 250 bis and 251 bis) Requesting to receive or accepting: <ul style="list-style-type: none"> — Giving, offering or consenting to give a public employee an economic benefit, for his advantage or for the advantage of a third party for such a person: — to perform or for having already performed an act in the exercise of his duties, for which reason no for such economic benefit is indicated. — to omit or for having already omitted to act in the exercise of his duties, or to perform or for having already performed an act in violation of the duties of his office. — to commit any serious crime or misdemeanour as a public official in the performance of his duties, or torture or other cruel, inhuman or degrading treatment caused by public officials to the rights guaranteed by the Constitution. Offering or consenting to give a foreign public official a benefit, whether economic or of another nature, for his advantage or for a third party, to omit or perform, or for already having omitted or performed, an act, in order to obtain or retain, for himself or for a third party, any business or advantage in the context of international transactions
The bribe		
Is there a presumption that any advantage was given/received corruptly?	X	X
Would facilitation payments be caught?	✓	✓
Would corporate hospitality be caught? ¹	X	X
Is there any <i>de minimis</i> ?	X	X
Does the bribe have to be monetary? ²	X	X
Public officials		
Does the offence only apply to bribing public officials?	✓	✓
Acts performed outside Chile		
Can bribery performed outside Chile be caught?	X ³	X ⁴
Does the act also need to be illegal in the foreign country of performance?	X	X
Who can be liable		
Chilean national?	✓	✓
Chilean company?	X	X
Chilean partnership (including limited liability partnership)?	X	X
Director of Chilean company?	X	✓ (Irrespective of the liability of the legal entity)
Chilean company if the bribe is committed abroad by its foreign subsidiary?	X	X
Foreign subsidiary of a Chilean company if the bribe is committed abroad?	X	X
Foreign national / company / partnership if bribe is committed in Chile?	✓	✓
Foreign national domiciled or "ordinarily resident" in Chile if bribe is committed outside the jurisdiction?	X	X
Foreign company / partnership if bribe is committed abroad?	X	X
Penalties		
Penalties include:	<ul style="list-style-type: none"> — Imprisonment from 61 days to ten years — Suspension of exercising the public position — Absolute, temporary or perpetual disqualification, for public positions or offices — Fine of four times the amount of the benefit requested or accepted — Penalty applicable to the crime committed as a result of the bribe, if applicable — Absolute, temporary or perpetual disqualification, to exercise positions, jobs, trades or professions in companies that contract with organs or companies of the State or with companies or associations in which it has a majority participation; or in companies that participate in concessions granted by the State or whose purpose is the provision of public utility services 	<ul style="list-style-type: none"> — Imprisonment from 61 days to ten years — Absolute, temporary or perpetual disqualification, for public positions or offices — Fine from two to four times the amount of the benefit offered — Fine ranging from 100 to 1,000 "Monthly Tax Units"⁵ — Absolute, temporary or perpetual disqualification, to exercise positions, jobs, trades or professions in companies that contract with organs or companies of the State or with companies or associations in which it has a majority participation; or in companies that participate in concessions granted by the State or whose purpose is the provision of public utility services — Penalty applicable to the crime committed by the public official as a result of the bribe, provided that the former is more severe than an imprisonment penalty ranging from 61 days to 540 days
Defences		
Are there any defences available?	✓	✓

Chile (continued)

Source of law	Criminal Code	Law 20.393, which establishes the criminal liability of legal entities regarding money laundering and bribery offences
Offence	Bribery committed by or offered to private agents (Articles 287 bis and 287 ter.) <ul style="list-style-type: none"> Requesting to receive or accepting an economic benefit (or a benefit of another nature), for himself or for a third party, to favour or for already having favoured in the exercise of his work the contracting with one bidder over another. Giving, offering or consenting to give an employee or agent an economic or other benefit, for himself or a third party, to favour or for already having favoured the contracting of one bidder over another. 	Bribery committed by a legal entity or State-owned company <p>Offering or consenting to give a public employee an economic benefit, for his advantage or for a third party to:⁶</p> <ul style="list-style-type: none"> execute or for having executed an act in the exercise of his duties, for which reason no payments are indicated. omit or for having omitted an act in the exercise of his duties, or to execute or for having executed an act in violation of the duties of his office. commit any high crime or misdemeanour as a public official in the performance of his duties, or torture or other cruel, inhuman or degrading treatment caused by public officials to the rights guaranteed by the Constitution. <p>Offering or consenting to give an employee or agent from a private company an economic benefit, for his advantage or for the advantage of a third party for favour or for having favoured in the exercise of his work the contracting with one bidder over another.</p>
The bribe		
Is there a presumption that any advantage was given/received corruptly?	X	X
Would facilitation payments be caught?	✓	✓
Would corporate hospitality be caught? ¹	X	X
Is there any <i>de minimis</i> ?	X	X
Does the bribe have to be monetary? ²	X	X
Public officials		
Does the offence only apply to bribing public officials?	X	✓
Acts performed outside Chile		
Can bribery performed outside Chile be caught?	✓	✓ (Only if the crime has been committed directly and immediately in the interest or advantage of the legal entity, by its owners, controllers, managers, senior executives, representatives or those who perform administrative and supervisory activities)
Does the act also need to be illegal in the foreign country of performance?	X	X
Who can be liable		
Chilean national?	✓	X
Chilean company?	X	✓ (Regardless of the liability of the natural person involved)
Chilean partnership (including limited liability partnership)?	X	✓
Director of Chilean company?	✓	X
Chilean company if the bribe is committed abroad by its foreign subsidiary?	X	✓ (Only if the crime has been committed directly and immediately in the interest or advantage of the legal entity, by its owners, controllers, managers, senior executives, representatives or those who perform administrative and supervisory activities)
Foreign subsidiary of a Chilean company if the bribe is committed abroad?	X	X
Foreign national / company / partnership if bribe is committed in Chile?	✓	✓
Foreign national domiciled or "ordinarily resident" in Chile if bribe is committed outside the jurisdiction?	X	X
Foreign company / partnership if bribe is committed abroad?	X	X
Penalties		
Penalties include:	<ul style="list-style-type: none"> Imprisonment from 541 days to three years Fine of double the amount of benefit requested or accepted 	<ul style="list-style-type: none"> Dissolution of the legal entity or cancellation of its legal status Permanent or temporary prohibition from entering into acts and contracts with State agencies or companies or associations in which the State has majority participation Prohibition from being awarded any State concession Permanent or temporary loss of fiscal benefits, or absolute prohibition from receiving them for a specified period of time Fine ranging from 400 to 300,000 "Monthly Tax Units"⁷ Seizure of the assets unlawfully acquired Seizure of assets whose value corresponds to the amount of the gains obtain through the perpetration of the crime Publication of the condemnatory judgment The deposit of a sum equivalent to the investment made in an account held by the treasury (if the crime involves making an investment that exceeds the legal entity's income)
Defences		
Are there any defences available?	✓	✓ ⁸



¹ Generally speaking the answer is no. However, Law No. 20.730, which regulates lobbying and the management of private interests before authorities and officials, only authorises official, recorded donations given out of courtesy and politeness (all of which must be disclosed in a public register), so that an excessively burdensome or expensive gift could be considered a bribe. However, this must be analysed according to the particularities of the case.

² In the case of bribery offences in which a Chilean public official is involved, the benefit is only required to be of an economic or material nature, for example, the giving of a gift or debt forgiveness. In the case of bribery of a foreign public official, the law itself provides for the possibility of benefits of another nature.

³ Although the answer is no, the following cases will be subject to Chilean jurisdiction: (i) crimes and misdemeanours committed by a diplomatic or consular officer of Chile, in the exercise of his functions, carried out outside the country, and also (ii) bribery committed by Chilean public officials or foreigners in the service of Chile and bribery of foreign public officials, perpetrated outside the country by a Chilean or by a person who has habitual residence in Chile.

⁴ Chilean laws, when contemplating the crime of bribery of a foreign public official, refer to its commission within the Chilean territory or jurisdiction.

⁵ "UTM" is a Chilean legal unit of account mostly used to calculate fines and tax obligations, which is automatically updated according to inflation. Considering UTM value on October 2020, the fine expressed in Euros ascends from EUR 5,555 to EUR 55,550.

⁶ Only when the crime has been committed directly and immediately in the interest or advantage of the legal entity, by its owners, controllers, managers, senior executives, representatives or those who perform administrative and supervisory activities, and provided that the commission of the offence was a consequence of the breach by the legal entity of its supervision and managerial duties.

⁷ Considering UTM value in October 2020, the fine expressed in Euros increases from EUR 22,200 to EUR 16.665m.

⁸ In the case of legal entities, they may defend themselves against the attribution of criminal liability by alleging: (i) that the commission of the crime has not been the consequence of the breach of their supervision and managerial duties ; and/or (ii) that the owners, controllers, managers, senior executives, or representatives of the legal person, or those who perform administrative or supervisory activities of it, involved in the commission of the crime, have done so exclusively for their own advantage or in favour of a third party.

Colombia

Source of law	
Criminal Code (Law 599 of 2000), Anti-bribery and Corruption Statute (Law 1474 of 2011), Inter-American Convention Against Corruption, Convention of the United Nations Against Corruption, OCDE Anti-bribery Convention.	
Offence Bribery offences in Colombia target personal benefits in the private and public sectors. The sphere of application covers minor, medium and high profile bribery cases, which depend on the magnitude of the resources and people involved. National legislation criminalises several forms of corruption including active and passive bribery, public extortion, and abuse of office, among others.	Criminal code: — Article 250A. Private corruption. Whoever, directly or indirectly, promises, offers or grants to officers, directors, employees or advisors of a corporation, association or foundation, a gift or any non-justified benefit, for the benefit of the promisor, offeror or grantor, or a third person, to the detriment of such corporation, association or foundation. — Article 250B. Unlawful administration. The company's registered or de facto officer, director, partner or shareholder, advisor or employee, who in order to obtain a benefit for himself or a third party, in abuse of the functions of his position (i) fraudulently disposes of the company's assets; or (ii) assumes an obligation on behalf of the company that causes a direct economic loss to its partners and that might be assessable. — Article 407. Bribery of a public official. Whoever offers or gives money or other benefits to a public official (i) for the purpose of withholding or omitting an act which is under the public official's responsibility, or performing an act against its duties as a public servant; or (ii) to perform an act under its responsibility as a public servant. — Article 410A. Restrictive competition agreements. When two or more entities or individuals in a process of public bidding, public auction, abbreviated selection or contest agree to unlawfully alter the contractual procedure. — Article 411A. Traffic of influence by individuals. Unlawfully influencing a public official in a matter that he knows or should know, in order to obtain any economic benefit. — Article 433. Foreign bribery. Whoever gives or offers to a foreign public official, for the benefit of such public official or for the benefit of a third person, directly or indirectly, any money or object with a pecuniary value or benefit, in exchange for performing, omitting or delaying any act related to an economic or commercial transaction. — Article 444. Bribery. Whoever delivers or promises to deliver money or confer a benefit to a witness, in order for him to give a false statement, or fail to reveal the total or partial truth during his deposition. — Article 444A. Bribery in criminal proceedings. Whoever delivers or promises to deliver money for his or someone else's profit or whoever confers a benefit to a witness of a criminal offence, for him to refrain to assist to his deposition, or for him to give a false statement, or fail to reveal the total or partial truth ¹ . Administrative penalties: — Administrative liability of legal entities: Legal entities that through one or several (i) employees; (ii) contractors; (iii) administrators; or (iv) associates employed by the company or by any of its subsidiaries or any other subordinate legal entity (i) give; (ii) offer; or (iii) promise to a foreign public official, directly or indirectly (i) sums of money; (ii) any item of pecuniary value; or (iii) other benefit or utility in exchange for the foreign public official (i) performing; (ii) omitting; or (iii) delaying any act related to the exercise of its functions and in relation to a business or international transaction, will be held liable and fined.
The bribe	
Is there a presumption that any advantage was given/received corruptly?	X ²
Would facilitation payments be caught?	✓ ³
Would corporate hospitality be caught?	X ⁴
Is there any <i>de minimis</i> ?	✓ ⁵
Does the bribe have to be monetary?	X ⁶
Public officials	
Does the offence only apply to bribing public officials?	X ⁷
Acts performed outside Colombia	
Can bribery performed outside Colombia be caught?	✓ ⁸
Does the act also need to be illegal in the foreign country of performance?	X ⁹
Who can be liable	
Colombian national?	✓
Colombian company?	X ¹⁰
Colombian partnership (including limited liability partnership)?	X ¹¹
Director of Colombian company?	✓
Colombian company if the bribe is committed abroad by its foreign subsidiary?	X ¹²
Foreign subsidiary of a Colombian if the bribe is committed abroad?	X ¹³
Foreign national / company / partnership if bribe is committed in Colombia?	X ¹⁴
Foreign national domiciled or "ordinarily resident" in Colombia if bribe is committed outside Colombia?	X ¹⁵
Foreign company / partnership if bribe is committed abroad?	X ¹⁶

Colombia (continued)

Penalties	
Penalties include:	Depending on the offence committed, penalties vary. Nevertheless, the most common penalties are prison or fines, appraised in legal monthly salaries. Normally prison varies between three to ten years, and fines vary between ten to 1,000 legal monthly salaries. At the time of this brief the legal monthly salary in force is approximately USD 232. There are also attenuating circumstances, such as not having a criminal record at the time of the sentencing, and aggravating circumstances such as corruption related to assets dedicated to providing for the basic needs of the population.
Defences	
Are there any defences available?	<ul style="list-style-type: none"> — State of need in cases of extortion. This is the most common defence, based on the possibility of allocating the responsibility entirely to the public official, who may be extorting the private individual by utilising his or her office. — Error regarding the facts of the crime, such as not being aware that the individual is a public official.

- ¹ Only offences that can be committed by private individuals are noted, crimes that can only be committed by public officials are not listed.
- ² Due to the the Colombian Criminal Code, it must be proven that any advantage was given/received corruptly. Public officials can be prosecuted for unjustified increments in their estate, effectively reversing the burden of proof in said cases.
- ³ Please note that in Colombia, there is no distinction between facilitation payments and bribes.
- ⁴ Nevertheless authorities might categorise many conducts perceived as corporate hospitality as acts of bribery or corruption. Please be advised that the health sector has a special prohibition regarding the promise, offering or grant of any type of benefit, including corporate hospitality, to workers of health institutions and entities and independent workers (L. 1474 of 2011. Article 133).
- ⁵ The principle of actual damage excludes the prosecution of irrelevant acts. There is no established minimum amount, but irrelevant gifts will not be prosecuted.
- ⁶ The legal provisions explicitly prohibit monetary bribes or the offering and receiving of any kind of benefit.
- ⁷ Certain crimes can only be committed by public officials, but the aforementioned offences can be committed by private individuals, and corruption amongst private entities is also prosecuted, even without any kind of involvement from public officials. The main difference is that in these cases the crime is treated as a crime against individual wealth and not as a crime against the wealth of the State. Furthermore, individuals and entities may be subject to administrative penalties for committing foreign bribery (i.e. entities are subject to hefty fines). The offence also applies to bribing foreign public officials.
- ⁸ Transnational bribery is both a criminal and administrative offence and carries a prison sentence and administrative penalty.
- ⁹ If the crime is not prosecuted in the country of performance, either because of the absence of legislation or lack of interest from the authorities.
- ¹⁰ According to Colombian Criminal Code only individuals can be liable. Nevertheless companies, partnerships and subsidiaries might have administrative penalties. Several recent efforts have included administrative penalties with hefty fines for entities, companies, partnerships and subsidiaries that commit corruption acts as well as the termination of their existence as a legal entity (i.e. foreign bribery and restrictive competition acts).
- ¹¹ Colombia establishes no criminal liability of corporations under its legislation. Only individuals can be criminally liable. Corporations may have civil or administrative liability for crimes committed within the organisation, making the standards of compliance protection systems relevant in these cases.
- ¹² See footnote 11. For instance, this is the case for the administrative penalty of foreign bribery.
- ¹³ See footnote 11.
- ¹⁴ See footnote 11. Only foreign individuals can be liable.
- ¹⁵ If the crime committed carries a penalty of over two years in prison, the individual is in Colombia at the time of the investigation, and the crime is not being tried in another jurisdiction, Colombian authorities claim competence to try the case.
- ¹⁶ See footnote 11.

Source of law	Federal Criminal Code (Código Penal Federal) and the criminal codes of several states, General Administrative Liabilities Law (Ley General de Responsabilidades Administrativas), the Asset Forfeiture Law (Ley de Extinción del Domino) and the National Anti-corruption System
Offence	<p>Corrupt practices may be pursued through both administrative and criminal avenues.</p> <p>National Anti-corruption System</p> <p>In 2015 and 2016, as a result of the effort of the Federal Government to eradicate bribery and corruption, several reforms were carried out in order to create a National Anti-Corruption System (NAS). The NAS coordinates social entities and authorities of different levels of government, in order to prevent, investigate and punish corruption. According to the NAS website, it is currently operating in 95% of Mexican territory. In order to function properly, the NAS implemented operational and structural changes, the most relevant being the following:</p> <ul style="list-style-type: none"> — The creation of the Anti-corruption Prosecution Bureau and the Citizen Participation Committee. — The establishment of penalties to private entities which engage in bribery and corruption. — The implementation of new laws and the reform of existing laws, such as: <ul style="list-style-type: none"> • new National Anti-corruption System Law; • new General Administrative Liabilities Law; • new Federal Court of Administrative Justice Law; • new Audit and Accountability of the Federation Accounts Law; • reform of the Federal Criminal Code; • reform of the Organic Law of Federal Public Administration; and • reform of the Attorney-General's Office Organisation Act. — State legislatures were required to pass new legislation or to amend existing laws to conform with the provisions of the General Administrative Liabilities Law. — The creation of a Coordinating Committee responsible for establishing coordination mechanisms between members of the NAS. — The implementation of a National Digital Platform that connects various electronic systems in order to establish policies and measurement methodologies, to which Authorities will have access. <p>Criminal Code</p> <p>The Federal Criminal Code, and the criminal codes of several states, contain a specific chapter covering felonies associated with acts of corruption.</p> <p>By public officials</p> <p>Bribery (Article 222, I): "Unduly requesting or receiving, by himself or through an intermediary, money or any benefit, or accepting a promise, for himself or a third party, to act or not act a function inherent to their duty".</p> <p>Traffic of Influence (Article 221, I., II.): (I) "The official who, directly or through intermediaries, promotes or performs an improper act in the exercise of his functions; and (II) the official who solicits or promotes any resolution or realisation within the post, charge or commission of a public official, which results in economic benefits for himself or for a third party".</p> <p>Embezzlement (Article 223, I., II.): "Embezzling money, goods, properties or any other object belonging to the State, or to an individual, whether for their own or someone else's benefit, if they received them through administration, in deposit or for any other cause by reason of their post".</p> <p>By others</p> <p>Bribery (Article 222, II): "Giving or offering money or any other gift to an official (including a foreign official) for any form of performance or non-performance of his or her functions."</p> <p>Traffic of Influence (Article 221 II): "Any person who promotes the illicit conduct of the official or assists with the promotion or management of such illicit conduct."</p> <p>Embezzlement (Article 223, III, IV): "Any person who solicits or accepts the offer to act or not to act contrary to his duty in exchange for public funds or to enjoy the benefits deriving from undue use of power and faculties."</p> <p>Law on Administrative Liabilities</p> <p>The General Administrative Liabilities Law establishes administrative penalties for improper payments to government officials, bid rigging in public procurement processes, the use of undue influence, and other corrupt acts.</p> <p>The General Administrative Liabilities Law applies to all Mexican public officials who commit what the law calls "non-serious" and "serious" administrative offences and private parties (entities or individuals / domestic or foreign) who engage in corrupt practices.</p> <p>Non-serious administrative offences include the failure to uphold certain responsibilities of public officials, as defined by the General Administrative Liabilities Law (e.g. cooperating with judicial and administrative proceedings, reporting misconduct etc.). Serious administrative offences include accepting (or demanding) bribes, embezzling public funds and committing other corrupt acts, as defined by the law.</p> <p>By public officials</p> <p>Bribery (Article 52): "The public official who, by himself or through third parties, demands, accepts, obtains or intends to obtain, any benefit beyond their legitimate remuneration for the fulfilment of their functions commits an act of bribery." This article extends to political campaigns and political candidates. "Also considered bribery will be the public official who does not return payment in excess of their legitimate remuneration according to the applicable tabulators within 30 calendar days of receiving it."</p>

Mexico (continued 1)

		<p>Embezzlement (Article 53): "The public official who authorises, requests or performs acts for the use or appropriation of public resources, whether human, material or financial, without legal basis or contrary to the applicable rules will commit public embezzlement." "Public officials will not be able to provide for the services of members of a police corporation, public security or armed forces, in the exercise of their functions, to provide personal security, unless contemplated by regulation or it is deemed necessary in the circumstances to provide such security..."</p> <p>Conflict of Interest (Article 58) "The public official who intervenes, due to his employment, position or commission in any way, in the attention, procedure or resolution of matters in which he has a conflict of interest or legal impediment, acts in conflict of interest."</p> <p>Hidden Enrichment or Concealment of Conflict of Interest (Article 60): "The public official who fails to comply with the veracity in their financial declaration or fails to declare a conflict of interest with the purpose of concealing the increase in his finances or the unjust use and enjoyment of goods and services, will engage in hidden enrichment or concealment of conflict of interest."</p> <p>Simulation of a legal act (Article 60 Bis): "A public official commits a simulation of a legal act when he uses legal personality other than his own to obtain, for his own benefit or that of a family member...public resources contrary to the law."</p> <p>Traffic of Influence (Article 61): "The public official who, through his position, promotes or performs an improper act in the exercise of his functions, which results in an economic benefit for himself or for a third party, will engage in traffic of influence."</p> <p>Nepotism (Article 63 Bis): "A public official commits nepotism when he, through the attributes of his employment or position, directly or indirectly, designates, appoints or intervenes...to employ a person who has kinship ties up to the fourth degree...or through marriage or common-law bond."</p> <p>By others Bribery (Article 66): "Any individual who promises, offers or delivers any undue benefit referred to in Article 52 [see above] of this Law to one or more public official, directly or through third parties, in exchange for such public official to perform or refrain from performing any act shall be an act of bribery."</p> <p>Asset Forfeiture Law The recent Asset Forfeiture Law overhauls forfeiture of assets deriving from illicit activities, including those related to organised crime, kidnapping, hydrocarbon theft, health, human trafficking, corruption, motor vehicle theft, illicit proceeds, and those committed by public officials, has become one of the most relevant laws affecting the response to corruption in Mexico.</p>
The bribe		
Is there a presumption that any advantage was given/received corruptly?		X
Would facilitation payments be caught?		✓
Would corporate hospitality be caught?		✓
Is there any <i>de minimis</i> ?		X
Does the bribe have to be monetary?		X ¹
Public officials		
Does the offence only apply to bribing public officials?		X
Acts performed outside Mexico		
Can bribery performed outside Mexico be caught?		✓
Does the act also need to be illegal in the foreign country of performance?		✓ ²
Who can be liable		
Mexican national?		✓
Mexican company incorporated in the jurisdiction?		✓ ³
Mexican partnership (including limited liability partnership)?		✓ ⁴
Director of Mexican company?		✓
Mexican company if the bribe is committed abroad by its foreign subsidiary?		X
Foreign subsidiary of a Mexican company if the bribe is committed abroad?		✓
Foreign national / company / partnership if bribe is committed in Mexico?		✓
Foreign national domiciled or "ordinarily resident" in Mexico if bribe is committed outside Mexico?		✓ ⁵
Foreign company / partnership if bribe is committed abroad?		✓ ⁶

Mexico (continued 2)

Penalties	
Penalties include:	<p>Federal Criminal Code</p> <p>Individuals (public officials or others)</p> <p><i>Traffic of Influence:</i> Imprisonment of two to six years, a fine of 30 to 100 times the minimum current daily salary in Mexico City.</p> <p><i>Bribery:</i></p> <ul style="list-style-type: none"> — Where the advantage does not exceed the equivalent to 200 times the current Unit of Measurement and Update (UMU) value: three months to two years' imprisonment, a fine of 30 to 100 times the minimum daily salary in Mexico City and dismissal or disqualification for one to ten years from occupying another public post, charge or commission — If the quantity or value of the gift, promise or amount borrowed exceeds 200 times the current UMU: two to fourteen years' imprisonment, a fine of 100 to 150 times the minimum daily salary in Mexico City and dismissal and disqualification for ten to twenty years from occupying another public post, charge or commission <p><i>Embezzlement:</i></p> <ul style="list-style-type: none"> — Imprisonment for three months to two years, a fine of 30 to 100 times the minimum daily salary in Mexico City — When the sum of the diverted funds exceeds 500 times the UMU, or is not quantifiable, imprisonment for two to fourteen years, a fine of 100 to 150 times the minimum daily salary in Mexico City — When the diverted funds are state contributions with the aim of public safety, a third of the above penalties shall be added to the total sentence <p>General Administrative Liabilities Law</p> <p><i>By public officials</i></p> <ul style="list-style-type: none"> — Suspension of employment, position or commission — Termination of employment, position or commission — Fine — Temporary disqualification from performing jobs, positions or commissions in the public service and from participating in acquisitions, leases, services or public works — If the benefit improperly obtained or granted through bribes does not exceed the equivalent of 5,000 times the UMU, and the excess amount is delivered or deposited in accordance with the applicable tabulator, the administrative fault will be considered not serious <p><i>By others including legal entities</i></p> <ul style="list-style-type: none"> — Individuals: <ul style="list-style-type: none"> • Economic penalty • Temporary disqualification from performing jobs, positions or commissions in the public service and from participating in acquisitions, leases, services or public works for three months to eight years • Compensation for damages and losses to the authority — Legal Entities: <ul style="list-style-type: none"> • Economic penalty • Temporary disqualification to perform jobs, positions or commissions in the public service and to participate in acquisitions, leases, services or public works for three months to ten years • The suspension of activities, for a period that will not be less than three months or more than three years, which will consist of stopping, deferring or temporarily depriving individuals of their commercial, economic, contractual or business activities • Dissolution of the entity • Compensation for damages and losses to the authority <p>For simulation of legal act, public officials can be disqualified for five to ten years</p>
Defences and Mitigations	
Are there any defences available?	<p>Demonstrating the existence of adequate procedures and a compliance structure in place at the time of the commission of the bribery offence can be a mitigating factor for determining sanctions under the Federal Criminal Code and reduce sanctions by up to 25%.</p> <p>Pursuant to the General Administrative Liabilities Law, the existence of an adequate integrity policy or a compliance programme is a mitigating factor for reducing sanctions.</p> <p>In addition, under the provisions of the General Administrative Liabilities Law confession of wrongdoing may reduce penalties by between 50% and 70%.</p>

¹ The offence of Bribery refers to money or any other gift or advantage

² As long as it involves the participation of Mexican individuals.

³ Only under the Law on Administrative Liabilities.

⁴ Only under the Law on Administrative Liabilities.

⁵ Only if the offence is against the interests of the Government or its citizens.

⁶ Only if it involves the direct or indirect participation of individuals or companies of Mexican nationality

⁷ The daily value of the UMU is MXN 86.88.

Sources of law	<p><i>Legislative Decree N° 635, Criminal Code of Peru from 1991.</i></p> <p><i>Law N° 30424, Law that regulates the administrative responsibility of companies for the crime of international active bribery.</i></p> <p><i>Supreme Decree N° 002-2019-JUS, Regulations of Law N° 30424.</i></p> <p><i>Legislative Decree N° 1352, Legislative Decree that extends the administrative responsibilities of companies.</i></p> <p><i>Legislative Decree N° 1385, Legislative Decree that sanctions corruption in the private sphere.</i></p>
Offence	<p>Bribery (Articles. 397, 397-A, 398 and 398-A):</p> <p>To offer, give, or promise a public official any donations, promises, advantages or benefits in exchange for them:</p> <ul style="list-style-type: none"> — acting in violation of their obligations — failing to act in violation of their obligations — performing acts related to their functions without violating their obligations (i.e. a facilitation payment) — failing to act related to their functions without violating their obligations (i.e. a facilitation payment) — bribing a public official from another state or a public official from any international organisation <p>This offence may be committed when any of the above conduct is directed towards magistrates, prosecutors, experts, arbitrators, members of the Administrative Tribunal or similar, judicial assistants, rapporteurs, or members of the National Police of Peru.</p> <p>Being bribed (Article 394, 395, 395-A, 395-B, 396):</p> <p>Where a public official accepts, receives, or solicits directly or indirectly, or facilitates the delivery of a donation, promise or any other advantage or benefit to:</p> <ul style="list-style-type: none"> — act in violation of their obligations — fail to act in violation of their obligations — perform acts related to their functions without violating their obligations (i.e. a facilitation payment) — fail to act related to their functions without violating their obligations (i.e. a facilitation payment) <p>This crime may be committed by magistrates, prosecutors, experts, arbitrators, members of the Administrative Tribunal or similar, judicial assistants, rapporteurs or members of the National Police of Peru.</p> <p>Other forms of bribery are committed when the public official:</p> <ul style="list-style-type: none"> — abuses their position and obliges or induces a person to give or inappropriately promise property or any benefit in cash or in kind (Article 382, Extortion) — demands, pays or delivers contributions or emoluments not due or in amounts that exceed the legal rate (Article 383, Improper Collection) — intervenes in one of the stages of a public tendering process or public procurement of goods or services and arranges with the State to defraud it. In this crime, both the participation and the economic damage to the State are sanctioned (Article 384, Collusion) — sponsors the interests of individuals as a priority over the interests of the public administration (Article 385, Illegal Sponsorship) — appropriates or uses, for him or herself or for another, funds, whose administration is entrusted to him because of his or her position. The penalty is greater if the funds are intended for welfare purposes, support programs or social inclusion (Article 387, Peculation) — uses or allows another to use vehicles or equipment belonging to the public administration for purposes unrelated to the service (Article 388, Embezzlement of use) — gives money or property that serves a different purpose to that which was intended for such money or property (Article 389, Embezzlement of funds) — is directly or indirectly interested, for their own benefit or that of a third party, in any contract or operation and wrongly intervenes in that contract or operation due to their position (Article 399, Incompatible Negotiation) — uses their actual or apparent position of influence to receive for themselves, or gives or promises to third parties a donation or any other advantage, with the objective of influencing an official who is involved or has been involved in a judicial or administrative case (Article 400, Traffic of Influence) — abuses their position to increase their assets illegally (Article 401, Illicit Enrichment) <p>Corruption in the private sector (Article 241-A)</p> <p>Promising, offering or granting an undue advantage or benefit of any nature, to the partner, shareholder, manager, director, administrator, legal representative, attorney-in-fact, employee or advisor of a private legal entity, non-governmental organization, association, foundation, committee, including non-registered entities or irregular companies, in exchange for favoring them or third parties in the acquisition or commercialisation of goods or merchandise, in the contracting of commercial services or commercial relations.</p> <p>Those who accept or receive such undue donations, promises, advantages or benefits of any nature, for themselves or a third party, will also be sanctioned.</p> <p>Corruption within private entities (Article 241-B)</p> <p>Accepting, receiving or requesting a donation, promise, or any other advantage or undue benefit of any nature for oneself or a third party, to carry out or omit an act to the detriment of the legal entity.</p> <p>The offence may be committed by the partner, shareholder, manager, director, administrator, legal representative, attorney-in-fact, employee or advisor of the private legal entity, non-governmental organisation, association, foundation, committee, including non-registered entities or irregular corporations.</p> <p>Anyone who promises, offers or grants such undue advantages or benefits of any nature, for themselves or a third party, as consideration for carrying out or omitting an act to the detriment of the legal entity, will also be punished.</p>

Peru (continued)

The bribe		
Is there a presumption that any advantage was given/received corruptly?		✓
Would facilitation payments be caught?		✓
Would corporate hospitality be caught?		✓
Is there any <i>de minimis</i> ?		X
Does the bribe have to be monetary?		X
Public officials		
Does the offence only apply to bribing public officials?		X
Acts performed outside Peru		
Can bribery performed outside Peru be caught?		✓ ¹
Does the act also need to be illegal in the foreign country of performance?		X
Who can be liable		
Peruvian national?		✓
Peruvian company?		✓ ²
Peruvian partnership (including limited liability partnership)?		✓
Director of Peruvian company?		✓
Peruvian company if the bribe is committed abroad by its foreign subsidiary?		✓
Foreign subsidiary of a Peruvian company if the bribe is committed abroad?		✓
Foreign national / company / partnership if bribe is committed in Peru?		✓ ³
Foreign national domiciled or "ordinarily resident" in Peru if bribe is committed outside Peru?		X
Foreign company / partnership if bribe is committed abroad?		X
Penalties		
Penalties include:	<p>Criminal Code of Peru from 1991, Legislative Decree N° 1243, Legislative Decree N° 1385</p> <p>Individual</p> <ul style="list-style-type: none"> — Imprisonment for up to 15 years for public officials — Imprisonment for up to 8 years for non-public officials — Up to 700 day-fines⁴ for public officials — Up to 730 day-fines for non-public officials — Additionally, other sanctions may be imposed, for example, disqualification from the function or position, a ban on holding certain other positions, the suspension of political rights, and the withdrawal of qualifications relating to certain positions or professions <p>Company</p> <p>Wherever there is individual liability, the following measures may be imposed on the organisation:</p> <ul style="list-style-type: none"> — a fine between five and 15 UIT⁵ — suspension of the company's commercial activities — prohibition on carrying out future activities — temporary or permanent closure of business — liquidation or winding up of company 	<p>Law N° 30424 and Legislative Decree N° 1352, Law No 30835</p> <p>Company</p> <p>Regardless of whether the individual that commits the crime is sanctioned (or even if it is prosecuted) the organisation may be held responsible and face the following penalties:</p> <ul style="list-style-type: none"> — fines — disqualification — temporary or permanent suspension of activities — prohibition on carrying on future activities or contracting with the Government — cancellation of licences, concession agreements or rights — temporary or permanent closure of business — liquidation or winding up of the company. Applicable only to legal persons that have been incorporated and operated to favour, facilitate or conceal the commission of crimes.
Defences		
Are there any defences available?	If the company develops and implements an effective and tailored compliance program before the crime is committed, the company may be exempt from any criminal liability. If such compliance program is implemented after the crime is committed, any sanction may be reduced.	

¹ International active bribery (Article 397-A).

² Since January 2018, Peruvian companies can be held liable for crimes committed by the company, independent of the liability of the person who actually commits the crime. In this regard, the law has established autonomous liability regarding the company and the person.

³ Individuals will be subject to criminal sanctions whilst legal entities will be subject to civil sanctions.

⁴ A day fine is a fine of between 25-50% of a person's daily average income.

⁵ Peruvian Tax Unit, currently valued in PEN 4,300 for 2020.

Contacts

Albania

CMS Albania

Rr. Sami Frashëri
Red building – 1st Floor
Tirana 1001, Albania
T +355 4 430 2123

Mirko Daidone, Managing Partner

E tirana@cms-rrh.com

Besnik Duraj, Partner

E besnik.duraj@cms-aacs.com

Australia

Corrs Chambers Westgarth

Sydney office
8-12 Chifley Square
Sydney NSW 2000, Australia
T +61 2 9210 6500

Richard Flitcroft, Partner

E richard.flitcroft@corrs.com.au

Melbourne office
567 Collins Street
Melbourne VIC 3000, Australia
T +61 3 9672 3000

Daniel Marquet, Partner

E daniel.marquet@corrs.com.au

Marie Costa, Special Counsel

E marie.costa@corrs.com.au

Austria

CMS Austria

Rechtsanwälte GmbH
Gauermannsgasse 2
1010 Vienna, Austria
T +43 1 40443 1850

Rainer Wachter, Partner

E rainer.wachter@cms-rrh.com

Belgium

CMS Belgium

Chaussée de La Hulpe 178
1170 Brussels, Belgium
T +32 2 74369 00

Jean-François Goffin, Partner

E jeanfrancois.goffin@cms-db.com

Gregory de Sauvage, Senior Associate

E gregory.desauvage@cms-db.com

Bosnia and Herzegovina

CMS Bosnia and Herzegovina

Ul. Fra Anđela Zvizdovića 1
71000 Sarajevo, Bosnia and Herzegovina
T +387 33 2964 08

Nedžida Salihović-Whalen, Partner

E nedzida.salihovic-whalen@cms-rrh.com

Indir Osmić, Associate

E indir.osmic@cms-rrh.com

Brazil

CMS Brazil

Consultores em Direito Estrangeiro
Travessa do Ouvidor, 5 – Sala 6.01
Centro, Rio de Janeiro, RJ, CEP 20040-040, Brazil
T +55 21 3723 6151

Ted Rhodes, Office Managing Partner

E ted.rhodes@cms-cmno.com

Rita Zanforlin, Senior Associate

E rita.zanforlin@cms-cmno.com

Bulgaria

CMS Bulgaria

Landmark Centre
14 Tzar Osvoboditel Blvd.
1000 Sofia, Bulgaria
T +359 2 92199 10

Atanas Bangachev, Partner

E atanas.bangachev@cms-legal.bg

Dimitar Zwiakow, Partner

E dimitar.zwiakow@cmslegal.bg

Chile

CMS Chile

Avda. Costanera Sur 2730, Piso 10
Parque Titanium, Las Condes
7550000 Santiago, Chile
T +562 2485 2000

Rodrigo Campero, Senior Associate

E rodrigo.campero@cms-ca.com

China

CMS China

Beijing office
Room 1909, China Youth Plaza
No. 19 Dongsanhuan North Road
Chaoyang District
Beijing 100026, China
T +86 10 8527 0259

Nick Beckett, Managing Partner

E nick.beckett@cms-cmno.com

Shanghai office
3108 Plaza 66 Tower 2
1266 Nanjing Road West
Shanghai 200040, China
T +86 21 6289 6363

Philipp Senff, Partner

E philipp.senff@cmslegal.cn

Yang Bai, Associate

E yang.bai@cmslegal.cn

Colombia

CMS Colombia

Calle 75 No. 3-53
Bogotá, Colombia
T +57 1 321 8910

Jacques Simhon, Partner

E jacques.simhon@cms-ra.com

Daniel Rodriguez, Partner

E daniel.rodriguez@cms-ra.com

Croatia

CMS Croatia

Ilica 1
10000 Zagreb, Croatia
T +385 1 4825 600

Dr Gregor Famira, Partner

E gregor.famira@cms-rrh.com

Hrvoje Bardek, Attorney

E hrvoje.bardek@bmslegal.hr

Czech Republic

CMS Czech Republic

Palladium, Na Poříčí 1079/3a
110 00 Prague 1, Czech Republic
T +420 2 96798 111

Tomáš Matejovský, Partner

E tomas.matejovsky@
cms-cmno.com

Filip Gvozdek, Associate

E filip.gvozdek@cms-cmno.com

France

CMS France

2 rue Ancelle
92522 Neuilly-sur-Seine, France
T +33 1 4738 5500

Véronique Bruneau Bayard, Associate

E veronique.bruneau-bayard@
cms-fl.com

Germany

CMS Germany

Hamburg office
Stadthausbrücke 1 – 3
20355 Hamburg, Germany
T +49 40 37630 0

Dr Markus Schoener, Partner

E markus.schoener@cms-hs.com

Munich office
Nymphenburger Straße 12
80335 Munich, Germany
T +49 89 23807 0

Dr Harald W. Potinecke, Partner

E harald.potinecke@cms-hs.com

Florian Block, Partner

E florian.block@cms-hs.com

Hungary

CMS Hungary

YBL Palace, Károlyi utca 12
1053 Budapest, Hungary
T +36 1 48348 00

Zsolt Okányi, Partner

E zsolt.okanyi@cms-cmno.com

Jozsef Kohl, Associate

E jozsef.kohl@cms-cmno.com

India

Khaitan & Co

One World Centre
10th and 13th Floors, Tower 1C
841 Senapati Bapat Marg
400 0013 Mumbai, India
T +91 22 6636 5000

Anand Mehta, Partner

E anand.mehta@khaitanco.com

Rabindra Jhunhunwala, Partner

E rabindra.jhunhunwala@
khaitanco.com

Indonesia

Rajah & Tann Asia

Jakarta office
Assegaf Hamzah & Partners
Capital Place, Level 36-38
Jalan Jenderal Gatot Subroto Kav. 18
Jakarta 12710, Indonesia
T +62 21 2555 7800

Surabaya office
Assegaf Hamzah & Partners
Pakuwon Center, Superblok
Tunjungan City
11th Floor, Unit 08
Jalan Embong Malang No. 1,3,5
Surabaya 60261, Indonesia
T +62 31 5116 4550

Ahmad Maulana, Partner

E ahmad.maulana@ahp.co.id

Italy

CMS Italy

Via Agostino Depretis, 86
00184 Rome, Italy
T +39 06 4781 51

Emilio Battaglia, Partner

E emilio.battaglia@cms-aacs.com

Kenya

CMS Kenya

Nairobi office
ABC Towers
ABC Place, Waiyaki Way, Westlands
00100 Nairobi, Kenya
T +254 204 297 000

Kananu Mutea, Partner

E kananu.mutea@cms-di.com

Joy Impano, Associate

E joy.impano@cms-di.com

Luxembourg

CMS Luxembourg

Rue Goethe 3
L-1637 Luxembourg
Luxembourg
T +352 26 27 53 61

Vivian Walry, Partner

E vivian.walry@cms-dblux.com

Malaysia

Rajah & Tann Asia

Level 22, Axiata Tower
No. 9, Jalan Stesen Sentral 5
Kuala Lumpur Sentral
50470 Kuala Lumpur, Malaysia
T +603 2273 1919

John Matthew, Partner

E john.mathew@christopherleeong.com

Mexico

CMS Mexico

Paseo de la Reforma 115, Piso 19
Col. Lomas de Chapultepec Mexico
City 11000, Mexico
T +52 55 2623 0552

César Lechuga, Partner

E cesar.lechuga@cms-wll.com

Monaco

CMS Monaco

Athos Palace
2, rue de la Lujerneta
98000 Monaco, Monaco
T +377 97 98 42 24

Olivier Marquet, Partner

E olivier.marquet@cms-pcm.com

Matthieu Massei,

Middle Associate

E matthieu.massei@cms-pcm.com

Montenegro

CMS Montenegro

Bulevar Džordža Vašingtona 3/22
Entrance V, Unit 9
81000 Podgorica, Montenegro
T +382 20 416070

Radivoje Petrikić,

Managing Partner

E radivoje.petrikic@cms-rrh.com

Nedeljko Velisavljević, Partner

E Nedeljko.velisavljevic@cms-rrh.com

Netherlands

CMS Netherlands

Utrecht office
Newtonlaan 203
3584 BH Utrecht, Netherlands
T +31 30 2121 111

Leonard Böhmer, Partner

E leonard.bohmer@cms-dsb.com

Amsterdam office

Atrium – Parnassusweg 737
1077 DG Amsterdam, Netherlands
T +31 20 3016 301

Edmon Oude Elferink, Partner

E edmon.oudeelferink@cms-dsb.com

Nigeria

Udo Udoma & Belo Osagie

St. Nicholas House (10th, 12th and
13th Floors),
Catholic Mission Street, Lagos,
Nigeria
T +234 1 277 4920

Adeola Sunmola, Partner

E adeola.sunmola@uubo.org

Oman

CMS Oman

Tilal Complex, Muscat Grand Mall
3rd Floor, Building No. 5, PO Box 41
136 Muscat, Oman
T +968 2 439 8752

Ben Ewing, Partner

E ben.ewing@cms-cmno.com

Peru**CMS Peru**

Av. Santa María 130
Miraflores, L18, Lima, Perú
T +51 1 513 9430

Carolina Cueva, Partner

E carolina.cueva@cms-grau.com

Poland**CMS Poland**

Warsaw Financial Centre
Ul. Emilii Plater 53
00-113 Warsaw, Poland
T +48 22 520 5555

**Arkadiusz Korzeniewski,
Partner**

E arkadiusz.korzeniewski@
cms-cmno.com

**Maciej Kópczyński,
Senior Associate**

E maciej.kopczynski@cms-cmno.com

**Mariusz Minkiewicz,
Senior Associate**

E mariusz.minkiewicz@
cms-cmno.com

Portugal**CMS Portugal**

Rua Castilho, 50
1250-071 Lisbon, Portugal
T +351 21 09581 00

**Andrea Baptista,
Senior Associate**

E andrea.baptista@cms-rpa.com

Romania**CMS Romania**

S-Park
11-15, Tipografilor Street
B3-B4, 4th Floor, District 1
013714 Bucharest, Romania
T +40 21 4073 800

Gabriel Sidere, Partner

E gabriel.sidere@cms-cmno.com

Horia Draghici, Partner

E horia.draghici@cms-cmno.com

Russia**CMS Russia**

Naberezhnaya Tower, block C
Presnenskaya Naberezhnaya 10
123112 Moscow, Russia
T +7 495 786 4000

Sergey Yuryev, Partner

E sergey.yuryev@cmslegal.ru

Saudi Arabia**Feras Al Shawaf**

Al Bawani Building
Salah Al Din Al Ayyubi Road
Malaz, Riyadh, Saudi Arabia
T +966 11 472 9999

**Feras Al Shawaf,
Managing Partner**

E feras@alshawafawlaw.com

Hassan Khalife, Consultant

E h.khalife@alshawafawlaw.com

Serbia**CMS Serbia**

Krunska 73, 11000 Belgrade, Serbia
T +381 11 3208 900

**Radivoje Petrikić,
Managing Partner**

E radivoje.petrikic@cms-rrh.com

Nedeljko Velisavljević, Partner

E Nedeljko.velisavljevic@cms-rrh.com

Singapore**CMS Singapore**

7 Straits View
Marina One East Tower, #19-01
Singapore 018936
T +65 9648 9008

Lakshanthi Fernando, Partner

E lakshanthi.fernando@
cms-holbornasia.com

Wei Ming Tan, Associate

E weiming.tan@
cms-holbornasia.com

Slovakia**CMS Slovakia**

UNIQ, Staromestská 3
811 03 Bratislava, Slovakia
T +421 2 2211 1500

**Oliver Werner,
Managing Partner**

E Oliver.Werner@cms-rrh.com

Petra Čorba Stark, Partner

E petra.corbastark@
cms-cmno.com

Slovenia**CMS Slovenia**

Bleiweisova 30
1000 Ljubljana, Slovenia
T +386 1 62052 10

Maja Zgajnar, Partner

E maja.zgajnar@cms-rrh.com

South Africa**CMS South Africa**

5th Floor
85 Grayston Drive
Johannesburg
South Africa
T +27 63 620 6022

Zaakir Mohamed, Director

E zaakir.mohamed@cms-rm.com

Spain**CMS Spain**

Paseo de Recoletos 7-9
28004, Madrid, Spain
T +34 91 4519 300

Carlos Aguilar, Senior Partner

E carlos.aguilar@cms-asl.com

Enrique Remón, Partner

E enrique.remon@cms-asl.com

Jorge Martínez, Senior Associate

E jorge.martinez@cms-asl.com

Switzerland**CMS Switzerland**

Dreikönigstrasse 7
8022 Zurich, Switzerland
T +41 44 285 11 11

Bernhard Lötscher, Partner

E bernhard.loetscher@cms-vep.com

Sébastien Moret, Associate

E sebastien.moret@cms-vep.com

Thailand**Rajah & Tann Asia**

973 President Tower, 12th Floor
Units 12A – 12F, Ploenchit Road
Lumpini, Pathumwan
Bangkok 10330, Thailand
T +66 2 656 1991

Melisa Uremovic, Partner

E melisa.u@rajahtann.com

Turkey**CMS Turkey**

Süzer Plaza, Askerocağı Caddesi
No:6 Kat:15
D:1501
34367 Elmadag/Şişli–Istanbul,
Turkey
T +90 212 243 49 28

Alican Babalioglu, Partner

E alican.babalioglu@cms-cmno.com

Ukraine**CMS Ukraine**

6th Floor, 38 Volodymyrska Street
01030 Kyiv, Ukraine
T +380 44 39133 77

Olga Shenk, Counsel

E olga.shenk@cms-cmno.com

19B Instytutska St.

01021 Kyiv, Ukraine

T +380 44 500 1718

Maria Orlyk, Partner

E maria.orlyk@cms-rrh.com

United Arab Emirates**CMS UAE**

Level 15 Burj Daman
Dubai International Financial Centre
Happiness Street
PO Box 506873, Dubai
T +971 4374 2800

John O'Connor, Partner

E john.oconnor@cms-cmno.com

Harkee Wilson, Legal Director

E harkee.wilson@cms-cmno.com

United Kingdom**CMS UK**

Cannon Place
78 Cannon Street
London EC4N 6AF
United Kingdom
T +44 20 7367 3000

Omar Qureshi, Partner

E omar.qureshi@cms-cmno.com

Eoin O'Shea, Partner

E eoin.oshea@cms-cmno.com

Amy Wilkinson, Senior Associate

E amy.wilkinson@cms-cmno.com

International coverage



CMS at a glance

Staff

> **8,000**

Lawyers

> **4,800**

Partners

> **1,100**

49 NEW PARTNERS IN 2019, TAKING THE TOTAL TO OVER 1,100

Operating in

71
cities

Across

43
countries

**EUR
1.426bn**
turnover for 2019

19 PRACTICE AND SECTOR GROUPS WORKING ACROSS OFFICES

» **#1 CEE, DACH, Germany** (*Mergermarket*)

» **#1 Germany, UK** (*Thomson Reuters*)

» **Top rankings in 2019 M&A League Tables** (*by deal count*)
#1 by Bloomberg in Europe, Germany and UK
#1 by Mergermarket in CEE, DACH and Germany
#1 by Thomson Reuters in Benelux and Germany

» **#1 Europe, Germany, UK** (*Bloomberg*)



Your free online legal information service.

A subscription service for legal articles on a variety of topics delivered by email.
cms-lawnow.com

The information held in this publication is for general purposes and guidance only and does not purport to constitute legal or professional advice.

CMS Legal Services EEIG (CMS EEIG) is a European Economic Interest Grouping that coordinates an organisation of independent law firms. CMS EEIG provides no client services. Such services are solely provided by CMS EEIG's member firms in their respective jurisdictions. CMS EEIG and each of its member firms are separate and legally distinct entities, and no such entity has any authority to bind any other. CMS EEIG and each member firm are liable only for their own acts or omissions and not those of each other. The brand name "CMS" and the term "firm" are used to refer to some or all of the member firms or their offices.

CMS locations:

Aberdeen, Abu Dhabi, Algiers, Amsterdam, Antwerp, Barcelona, Beijing, Beirut, Belgrade, Berlin, Bogotá, Bratislava, Bristol, Brussels, Bucharest, Budapest, Casablanca, Cologne, Dubai, Duesseldorf, Edinburgh, Frankfurt, Funchal, Geneva, Glasgow, Hamburg, Hong Kong, Istanbul, Johannesburg, Kyiv, Leipzig, Lima, Lisbon, Ljubljana, London, Luanda, Luxembourg, Lyon, Madrid, Manchester, Mexico City, Milan, Mombasa, Monaco, Moscow, Munich, Muscat, Nairobi, Paris, Podgorica, Poznan, Prague, Reading, Rio de Janeiro, Rome, Santiago de Chile, Sarajevo, Seville, Shanghai, Sheffield, Singapore, Skopje, Sofia, Strasbourg, Stuttgart, Tirana, Utrecht, Vienna, Warsaw, Zagreb and Zurich.

cms.law