

Transparency International on progress by Bulgaria

Bulgaria has scored 43/100 in the 2024 Transparency Corruption Perceptions Index (CPI), with the country now ranked 76th out of 180 countries. The 2024 CPI ranking sees Bulgaria drop two places compared to its performance in the 2023 CPI. The decline highlights persistent concerns over political interference and the absence of effective anti-corruption measures, which continue to erode public trust and impede the country's efforts to tackle corruption.

Below, we provide a short overview of the legal framework governing criminal liability for bribery in the Bulgaria, in which we highlight key aspects of national and international relevance, including cross-border compliance considerations.

1. Bribery and corruption

Under Bulgarian law, a bribe can be anything of value that constitutes an undue advantage. There is no set form or minimum value for an advantage to be considered a bribe, and no clear distinction between acts of bribery and lawful acts such as hospitality, gifts, travel expenses, or meals. The key factor in determining whether an act constitutes bribery is the intention behind the gift or offer.

Bulgarian criminal law – in line with relevant international instruments – comprehensively covers all forms of bribery. Bribery can be active (offering, promising, or giving a bribe) or passive (accepting or soliciting a bribe). Requesting a bribe (explicitly or implicitly) is also punishable. Therefore, all forms of bribery are punishable regardless of the number of intermediaries between the parties.

Bribery cases most frequently involve influencing public officials (in a broad sense), political corruption (e.g. vote-buying), bid rigging, bribery in public tenders, and trading in influence (bribery of third persons to exert influence over public officials).

Both public and private bribery are criminalised. Under Bulgarian law, public bribery is defined as the act of offering, giving or accepting a bribe in exchange for the performance or omission of an official duty by a public official. This crime is governed by the Bulgarian Criminal Code and applies to both the bribe-giver and the bribe-taker, with severe penalties for those involved in corrupt practices within public institutions or services.

Private bribery, on the other hand, refers to the act of offering, giving or accepting a bribe in a private setting, typically between individuals or within private organisations, in exchange for influencing or obtaining a specific action or decision. This differs from public bribery in that it does not involve public officials or the performance of public duties. Private bribery is also criminalised under the Bulgarian Criminal Code, with penalties imposed for those engaging in corrupt practices in the private sector.

Public bribery and private bribery are considered individual and distinct crimes. Each type of bribery carries specific penalties and legal consequences, thus reflecting the distinction between public and private corruption.

2. Corporate criminal liability (including bribery offences)

Bulgarian law does not historically recognise corporate criminal liability – i.e. companies cannot be held criminally liable.

While companies, unlike individuals, are not directly subject to criminal punishment, they can face administrative sanctions, including fines or restrictions, if their representatives or employees undertake illegal activities. In cases of severe economic crimes or corruption, the company may also face civil liability or penalties such as the loss of business licenses or contracts, as well as exclusion from public tenders.

That said, there have been discussions in Bulgaria about the possibility of introducing the concept of corporate criminal liability in light of EU legislation and OECD recommendations, but as of now companies can be held responsible only through administrative and civil measures.

3. Duty to report bribery

Under Bulgarian law, there is a normative obligation falling on individuals to immediately report a publicly actionable crime to the enforcement authorities. Anyone who is aware of bribery or corruption having occurred, including private individuals or business representatives, must report such offenses to the authorities. This can be done through the police, prosecutors or specialist anti-corruption bodies.

An identical legal obligation falls specifically on public officials, who are also required to take the necessary measures to preserve the crime scene and the evidence of the crime. Hence, public officials in Bulgaria have a legal

duty to report any instance of bribery or corruption that they become aware of in the course of their duties. Failure to report can result in criminal liability on the part of the public official.

4. Legal privilege and cross-border investigations

Bulgarian attorneys are subject to a confidentiality obligation stemming from the Bar Act and the Attorneys' Code of Ethics. The concept of legal privilege (or attorney-client privilege) refers to the protection of confidential communications between a lawyer and their client. This privilege ensures that any information shared in the context of seeking legal advice or representation remains confidential and cannot be used as evidence in court without the client's consent.

Under the Bulgarian Bar Act, correspondence between a lawyer and a client – irrespective of the manner in which it is conducted, including by electronic means – cannot be inspected, copied, examined or seized and is not admissible in evidence. Conversations between lawyer and client cannot be intercepted or recorded. A lawyer may not be questioned in a procedural capacity about: conversations or correspondence with a client; conversations and correspondence with another lawyer; the affairs of a client; or facts and circumstances he or she has learned in connection with the legal defence and assistance being provided.

5. Whistleblowing

Bulgaria has implemented the EU Whistleblowing Directive through the Bulgarian Whistleblower Protection Act ("WPA").

The WPA does not allow anonymous reporting and explicitly provides that no investigation may be initiated upon submission of an anonymous report. However, it also provides that anonymous whistleblowers who have submitted an anonymous report under a legal act other than the WPA must be protected against retaliation.

Although recently adopted, the WPA has encouraged more people to come forward with information about corruption and other misconduct, contributing to greater transparency and accountability.

6. Non-trial resolution of bribery cases

Non-trial resolution of bribery cases in Bulgaria, such as through plea bargaining or out-of-court settlements, is explicitly prohibited in cases of public bribery, but could be permissible in cases of private bribery.

Such agreements are negotiated between the offender and the public prosecutor and are subject to the court's ratification. In substance, the offender must admit that the facts as presented by the prosecution are accurate and agree to the proposed sanctions.

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