Transparency International on progress by Slovenia

Slovenia ranks 36th out of 180 countries in the 2024 Transparency Corruption Perceptions Index (CPI) with a score of 60/100 – a marked improvement from its performance in 2022 and 2023 (+4 in terms of both score and ranking). Perceptions of corruption have returned to pre-pandemic levels, following a trend whereby crises tend to coincide with a marked drop in ranking followed by an increase to a relatively stable level after recovery.

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

1. Bribery and corruption

Public and private sector bribery are criminalised as separate criminal offences. Public sector bribery offences relate to the offering of benefits to public officials (for themselves or a third party) in order for them to perform or abstain from performing any official act. The legality of the act itself is irrelevant. The definition of public official is relatively broad and includes any person who discharges public authority (not just public sector employees).

Private sector bribery offences relate to any giving or acceptance of undue benefits (for oneself or a third party) in order to entice a person to disregard the interests of their organisation. The qualification of this offence is very broad and covers a wide range of possible perpetrators and activities.

Under Slovenian law, a bribe is any undue material benefit offered or received. The law does not prescribe any minimum value or specific type of benefit that can be considered a bribe. In respect to private sector bribery, the law does not provide a clear distinction between bribery and permissible benefits such as (reasonable) hospitality, gifts, travel expenses. Whether such benefits may be considered a bribe depends entirely on the intent and actions on the side of the giver and receiver. In the public sector, some guidance is provided indirectly, as the law specifically prescribes under which conditions public officials may accept a gift, and the maximum permissible value of such a gift (EUR 100).

Slovenian criminal law comprehensively covers all forms of bribery. Bribery offences relate to both active (offering, promising, or giving a bribe) and passive (accepting or soliciting a bribe) conduct. 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), bid rigging, bribery in public tenders and trading in influence (bribery of third persons to exert influence over public officials).

2. Corporate criminal liability (including bribery offences)

Companies may be found liable for bribery offences if the offence was committed in the name of the company and, in addition, if:

a) the offence lies in the execution of an unlawful resolution, order or approval of the company's management or supervisory bodies; or

b) the management or supervisory bodies influenced the perpetrator or enabled the perpetrator to commit the offence; or

c) the company obtains undue material benefits as a result of the offence; or

d) the management or supervisory bodies have failed to exercise due supervision over the legality of the actions of their subordinates.

3. Duty to report bribery

Slovenian law provides a general reporting requirement for criminal offences that carry a statutory minimum sentence of 15 years in prison. Bribery offences do not fall into this category of offences.

Nevertheless, for criminal offences that are in progress and are preventable, the reporting threshold is much lower, instead applying to offences that carry a statutory minimum sentence of three years in prison. Bribery offences may fall into this category of offences.

Failure to report constitutes a criminal offence. Only spouses, common-law partners and close relatives are exempt from this duty.

4. Legal privilege and cross-border investigations

In general, attorneys at law registered with the Bar are bound by legal privilege for any facts that were made known to them in the course of their profession, except where they are required to disclose such information under applicable regulations. However, this is primarily an obligation incumbent on attorneys only and is only partially reflected in legal protection and privilege in civil and criminal proceedings.

In criminal proceedings, an attorney's premises may be searched for documents or information, but only where these documents or information cannot be obtained by any other means.

An attorney acting as a defence counsel in criminal proceedings cannot be called to testify in relation to the defendant, cannot have his/her premises searched for the purpose of obtaining documents or information and cannot have his/her client communications intercepted.

If any attorney-client communications, documents or other forms of information media are seized, intercepted or obtained from the company directly or through third parties, they are not covered by attorney-client privilege.

5. Whisteblowing

Companies with more than 50 employees must implement a whistleblowing management system for reports relating to (potential) breaches in specific areas (including bribery). They must also appoint an investigator and must investigate reports diligently, impartially and independently.

Since the person who in charge of investigating whistleblower reports must be appointed from among the employees of the company, there is a risk that the investigation and its results may not be covered by (even limited) legal privilege. This can be mitigated by appointing an attorney to assist in the conduct of the investigation.

6. Cooperation with prosecutors

Launching an internal investigation and being willing to cooperate with the prosecuting authorities, or even disclosing any misconduct, can arguably be considered a sign of effective compliance. However, the company does not derive any automatic statutory benefit from voluntary self-reporting or cooperating with prosecutors. The law does not make direct provision for cooperation between prosecuting authorities and companies wishing to cooperate. Therefore, companies must rely on the mutual trust built up between their attorneys and prosecution authorities.

7. Non-trial resolution of bribery cases

The practice of non-trial resolution of bribery cases, including out-of-court settlements, is limited.

Criminal law generally provides the option to negotiate a plea agreement in which the company admits that it is guilty and the public prosecutor determines the sentence to be imposed. However, such an agreement must be ratified by the court and can only be concluded after criminal court proceedings have been initiated.

The public prosecutor may, at its sole discretion, suspend or drop the charges before formal court proceedings have been initiated in instances where the perpetrator is prepared to cooperate and perform certain actions or address the consequences of the criminal offence.

Key expert

Simon Tecco
Senior Associate
E simon.tecco@wolftheiss.com
T +386 1 438 0037