

Transparency International on progress by Hungary

Hungary has scored 41/100 in the 2024 Transparency Corruption Perceptions Index (CPI), with the country now ranked 82nd out of 180 countries. According to Transparency International, Hungary's one-point drop in the 2024 CPI scorecard highlights ongoing concerns about public procurement processes and the breakdown of the rule of law. Hungary has been facing the most significant challenges of all EU countries, with this persistent downward trend yet to show signs of improvement.

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

1. Bribery and corruption

A bribe can be anything that constitutes an undue advantage. There is no set form or minimum value for an advantage to be considered a bribe in Hungary, and no clear distinction exists between acts of bribery and lawful acts such as hospitality, gifts, travel expenses or meals.

Hungarian criminal law comprehensively covers all forms of bribery. Under Hungarian criminal law, bribery, bribery of public officials and bribery in judicial or administrative proceedings are active forms of corruption in which an individual offers, promises or provides an unlawful advantage. In contrast, acceptance of a bribe, acceptance of a bribe by public officials and accepting a bribe in judicial or administrative proceedings are passive offences in which an individual requests, accepts or agrees to accept such an advantage.

These are all distinct criminal offences, each with its own statutory definition. Qualified cases include instances where the unlawful advantage is given or accepted in exchange for breaching official duties, the act involves a high-ranking official or is committed in a criminal organisation, or the advantage involves a substantial or particularly significant value. Such aggravating circumstances elevate the severity of the offence to reflect the increased societal harm and legal consequences associated with these actions.

2. Corporate criminal liability (including bribery offences)

In Hungarian criminal law, a legal person cannot be considered the perpetrator of a criminal offence, but can be held criminally liable and measures can be taken against it. The sanctionability of a legal person is derivative, meaning that measures can only be applied against it if a natural person has also been held liable. In view of this special situation, the criminal sanctions applicable to legal persons are not contained in the Criminal Code, but are set forth in a separate act.

According to that law, measures may be applied against a legal person in case of an intentional criminal offence, if the criminal offence was committed with the purpose or effect of obtaining an advantage for the benefit of the legal person, or if the criminal offence was committed using the legal person and the criminal offence was committed by a high ranking employee, a shareholder or an employee who is authorised to represent the legal person, among others.

For example, if a company's manager offers an unlawful advantage to a public official to secure a government tender, and this act benefits the company, both the manager and the company can be held liable.

Sanctions against a legal person include fines, restriction of the legal person's activities and ultimately the winding-up of the legal person, depending on the seriousness of the underlying offence and its legal role.

3. Duty to report bribery

The duty to report a crime (reporting duty) is a moral obligation falling on all individuals and companies to immediately report (or prevent altogether) crimes to the enforcement authorities. Both active and passive bribery must be reported. Individuals (whether employees or subcontractors of a company or third parties) are expected to report those crimes even where such reporting could result in sanctions against the company.

Failure to report a corruption-related crime, which includes bribery, is a criminal offence only in the case of public officials. Under the Hungarian Criminal Code, the category of "public officials" includes Members of Parliament, constitutional court judges, the Prime Minister, other ministers, state secretaries, state secretaries for public administration and deputy state secretaries, chief prefects, judges, public prosecutors and arbitrators, notaries public, bailiffs, and members or other representative bodies of municipal governments, among others. Overall, anyone who exercises executive powers or serves in public bodies and whose activity forms part of the proper functioning of the authority in question can be considered a public official.

4. Legal privilege and cross-border investigations

The concept of legal privilege can be considered to cover only Hungarian attorneys to the full extent. Hungarian attorneys are bound by a confidentiality obligation stemming from the Act on Attorneys' Activities and from constitutional rights to a fair trial of their clients. The Bar Association's Code of Ethics also contains relevant provisions.

Attorneys are obliged to keep legal privilege except where there are exceptions provided for by law. All facts, information and data of which an attorney becomes aware in the course of serving clients are considered covered by legal privilege.

As a general rule, an attorney must refuse to testify or to provide information about attorney-client privilege in any official or judicial proceedings, unless that attorney has been released from the obligation of confidentiality by the client. Further exceptions are that an attorney may disclose legally privileged information to the extent necessary to exercise his/her rights of defence in criminal proceedings against him and may disclose legally privileged information to the extent necessary to investigate and prove the commission of a criminal offence by a person other than his/her client to his/her own detriment or to the detriment of the client; in the case of a criminal offence committed to the detriment of a client, the client's consent for disclosure must be obtained.

5. Whistleblowing

Hungarian Act XXV of 2023 transposes the EU Whistleblowing Directive into Hungarian law, ensuring that complaint and reporting mechanisms comply with European standards.

A complaint under that Act is any report that describes a breach for which the complainant seeks a remedy or action. By contrast, a report in the public interest discloses misconduct or legal violations that affect the broader

public interest, with the aim of safeguarding the community rather than resolving a personal grievance. Additionally, the internal reporting system established by the employer must provide a structured mechanism for handling and investigating internal reports of wrongdoing within an organisation. This system enhances legal compliance and ensures the effective management of internal issues.

Companies with more than 50 employees or, under special circumstances, with any number of employees must implement a whistleblowing management system to receive reports relating to (potential) breaches in certain areas (including bribery). They must also appoint a whistleblowing investigator and must investigate reports diligently, impartially and independently.

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 explicit provision in matters of cooperation with prosecutors or about companies that wish 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

Under the Criminal Procedure Act, there is nothing to prevent settlement being reached solely because the evidence suggests that measures might also be taken against a legal person in the criminal proceedings. However, settlement may only pertain to the criminal liability and sanctions of the natural person accused of committing the offence, while any measures applicable to the legal person cannot be subject to a settlement.

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