

Transparency International on progress by Poland

Poland has achieved a score of 53/100 in the 2024 Transparency Corruption Perceptions Index (CPI), ranking the country 53rd out of 180 nations. This marks a slight decline compared to Poland's 2023 CPI performance and ranking. The drop in ranking underscores ongoing concerns about the effectiveness of anti-corruption mechanisms and the influence of political interests, which continue to affect public confidence and hinder meaningful progress in addressing corruption.

Below, we present an overview of the legal framework regulating criminal liability for bribery in Poland, emphasising key aspects of both domestic and international importance, including considerations for cross-border compliance.

1. Bribery and corruption

In Poland, bribery and corruption are strictly regulated under both domestic law and international conventions. The key legal framework governing bribery includes the Penal Code (*Kodeks Karny*), which criminalises various forms of corruption, including both offering and accepting bribes. Under the Penal Code, it is illegal to offer, give or accept bribes in exchange for improper actions or decisions. This applies both to public officials and to private individuals. Bribery in the public sector is dealt with particularly severely, with higher penalties for public officials involved in corrupt activities.

Polish law recognises both active and passive bribery, as well as recognising bribery in the private sector. Active bribery refers to the offer or giving of a bribe to another person (including to public officials), while passive bribery involves the acceptance of a bribe (typically by a public official) in exchange for performing (or refraining from performing) an official act. Bribery laws also extend to private companies, making it illegal for employees to solicit or accept bribes related to their professional duties.

Bribery can take various forms depending on the situation and the individuals involved. The most common forms include: (i) cash payments – the most straightforward and frequent form of bribery; (ii) gifts and favours – which are often used to curry favor or ensure favourable treatment in business dealings or official matters; (iii) offering services or benefits – such as job opportunities; and (iv) political donations in return for influence or political advantage. The Polish courts tend to evaluate these circumstances to determine whether the gift should be treated as a bribe.

2. Corporate criminal liability (including bribery offences)

In Poland, corporate criminal liability extends to legal entities, including companies, which can be held accountable for bribery and other criminal offences. Under

the Polish Penal Code, companies may be prosecuted for bribery-related offences, such as offering or accepting bribes, if the company's representatives or employees engage in corrupt activities to benefit the organisation. Corporate criminal liability also envisages the possibility of imposing fines on the company, or in certain cases, even dissolution, depending on the severity of the offence. This legal framework is designed to ensure that companies adopt adequate measures to prevent corruption and comply with the law.

Corporate criminal liability remains weak, with limited enforcement and few cases of companies being held accountable for bribery offences. According to current ineffective solutions, legal entities are not responsible for their own actions but for acts committed by individuals. A prerequisite for holding a legal entity liable is the conviction of the individual involved. Despite legal provisions, there is a lack of consistent application of penalties and effective compliance measures for legal entities.

3. Duty to report bribery

In Poland, there is a social obligation to report crimes, including bribery, as specified in Article 304 § 1 of the Penal Code. This obligation applies to anyone who has knowledge of an offence punishable by public prosecution. Failure to report does not carry criminal sanctions, but only potential social responsibility. This duty is limited to offences liable to ex officio prosecution and does not apply to private prosecution offences. However, State and local government institutions that become aware of offences liable to ex officio prosecution in connection with their activities are required to promptly notify the public prosecutor or the police. They must also take the necessary steps to preserve the traces and evidence of the crime until the designated prosecuting authority arrives or issues an appropriate order.

4. Legal privilege and cross-border investigations

In Poland, attorneys are bound by a confidentiality obligation deriving from the Act on Attorneys and the Code of Ethics for Attorneys. The concept of legal privilege (or attorney-client privilege) refers to the protection of confidential communications between client and attorney. This privilege ensures that any information shared while seeking legal advice or representation remains confidential and cannot be used as evidence in court without the client's consent.

According to Polish law, correspondence between client and attorney – regardless of the method of communication, including electronic means – cannot be inspected, copied, examined or seized and is not admissible as evidence in court. Conversations between client and attorney cannot be intercepted or recorded. Additionally, an attorney cannot be questioned about conversations or correspondence with a client, communication with other attorneys, or any information learned in the course of providing legal defence and assistance.

5. Whistleblowing

Private and public entities with more than 50 employees are required to establish an internal whistleblowing system to handle reports of potential violations in specified areas, including bribery. These entities must designate a person who will receive reports, communicate with whistleblowers and oversee protection measures and investigations. This individual may be an internal employee or a third party, such as an attorney.

6. Cooperation with prosecutors

Initiating an internal investigation and demonstrating a willingness to collaborate with prosecuting authorities, or even disclosing any wrongdoing, can be viewed as an indication of the company's commitment to compliance. However, proactively reporting or working with prosecutors does not automatically provide the company with any procedural or legal advantages.

In practice, courts have discretion to determine whether a specific factor should be considered an aggravating or mitigating circumstance and how it should be factored into the assessment of liability or sentencing. Generally, a reduction in sentence is applied when mitigating factors are present, particularly when the offender has either fully or significantly made amends for the damage caused by the crime or has made considerable efforts to do so. This highlights the importance for companies to cooperate throughout the entire process.

7. Non-trial resolution of bribery cases

In Polish law, conviction without trial allows the defendant to negotiate the punishment with the prosecutor before the court proceedings begin. If the defendant agrees to the proposed sentence, the prosecutor submits a request to the court for conviction without trial. This process speeds up the legal procedure and offers benefits for both the accused (such as avoiding a trial, reduced stress, and potentially receiving a lower punishment) and the victim (who avoids repeated court appearances and can receive compensation more quickly). However, it is excluded in the case of felonies and the defendant's consent is required for this option to be exercised. In addition, no appeal is available against factual errors or disproportionate penalties.

Key expert



Dariusz Kielb

Senior Associate

E dariusz.kielb@wolftheiss.com

T +48 22 3788 987