

## Transparency International on progress by Croatia

Croatia has scored 47/100 in the 2024 Transparency Corruption Perceptions Index (CPI), with the country now ranked 63<sup>rd</sup> out of 180 countries. This performance sees Croatia slide three positions compared to its overall ranking last year, reflecting a similar trend observed in many other EU countries.

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

### 1. Bribery and corruption

Under Croatian criminal law, a bribe can be any undue reward, gift or other pecuniary or non-pecuniary benefit, regardless of its value.

All forms of bribery are subject to criminal prosecution, whether active (offering, promising, or giving a bribe) or passive (accepting or soliciting a bribe). Requesting a bribe (explicitly or implicitly) is also punishable.

There are separate offences criminalising both active and passive bribery in economic operations and in bankruptcy proceedings. Due to the importance of combatting corruption in the public sector, distinct criminal offences for receiving and giving bribes apply to “official or responsible” persons, which includes a broad list of officials and certain foreign public officials. Additionally, bribery aimed at “trading in influence” constitutes a separate criminal offence.

Depending on the specific crime, the maximum prison sentence for bribery offences can range from five to ten years.

The European Commission and the OECD regularly emphasise the need for additional measures to address corruption risks at a local level in Croatia, particularly in terms of control and sanctioning of local government. While the effectiveness of law enforcement bodies has improved significantly and Croatian criminal law meets international standards, corruption remains widespread. The reports highlight gaps in the functional framework for combating corruption and stress the need for measures to strengthen ethical standards in local governance to reduce susceptibility to undue influence.

### 2. Corporate criminal liability (including bribery offences)

Under Croatian law, companies can be held criminally liable for offences (including bribery) committed by a “responsible person” within the entity. A responsible person is broadly defined as an individual who leads the company’s operations or is entrusted, at any corporate level, with tasks within the company’s scope of activities. Criminal liability arises if the offence: (i) violates any of

the company’s duties, (ii) enables or aims to enable the company to obtain a benefit for itself or another person, or (iii) occurs due to inadequate supervision or control by the responsible person. Companies are primarily sanctioned with monetary fines but may also be dissolved if they are found to have been established with the principal objective of committing criminal offences.

A company cannot avoid criminal liability simply by changing its legal form, or by way of restructuring or transformation. If a company ceases to exist, whether before or after the conclusion of criminal proceedings, only the company’s general legal successor(s) may be held criminally liable. Asset transfers alone are not sufficient to establish criminal liability on the part of the acquiring entity.

### 3. Duty to report bribery

Generally, all legal and natural persons in Croatia must report any criminal offence they have been informed of or have become aware of. However, not every failure to report constitutes a criminal offence. Failure to report is a crime when an individual fails to report either the preparation of a criminal offence that is punishable by five years of imprisonment or more (which includes all bribery-related offences) or the actual commission of an offence that is punishable by ten years of imprisonment or more (which only covers bribery by public officials).

Individuals (whether employees, subcontractors, or third parties) must fulfil this duty even if reporting could incriminate the company. Croatian attorneys are exempt from the reporting duty under their professional confidentiality obligations.

### 4. Legal privilege and cross-border investigations

The concept of legal privilege is interpreted as an attorney’s obligation to preserve confidentiality regarding all information entrusted to him/her by a client or otherwise learned while representing the client. Attorneys also have the right to refuse to testify in legal proceedings if doing so would breach this confidentiality. This legal privilege primarily applies to Croatian attorneys. However, it should also be extended to attorneys from other EU Member

States who are authorised to practice in Croatia, albeit only for the legal services they are permitted to provide under the local regulation.

Consequently, special care must be taken during cross-border investigations, especially those involving non-EU attorneys, who will not be covered by Croatian legal privilege. In such cases, it is best practice for a Croatian attorney to serve as the sole point of contact for the company to ensure that confidentiality is maintained.

Additionally, legal privilege extends to all individuals working or having worked in a law office, whereas a company's in-house lawyers do not enjoy any privilege under Croatian law.

## 5. Whistleblowing

Both private and public entities employing more than 50 employees must implement an internal whistleblowing system for reports relating to (potential) breaches in designated areas (including bribery). They must appoint a person responsible for receiving reports, communicating with whistleblowers and overseeing protection measures and investigations, who may be an employee or an external party (e.g. an attorney).

Since the introduction of whistleblowing legislation, there has been an increase in whistleblowing activity, both through internal and external reporting (i.e. reporting to the Ombudsperson). Official data indicate that most external reports concern State-owned companies and public bodies, while reporting in the private sector remains relatively low.

## 6. Cooperation with prosecutors

Launching an internal investigation and being willing to cooperate with the prosecuting authorities, or even disclosing any misconduct, can be seen as a sign of the company's compliance practices. However, voluntarily

reporting or collaborating with prosecutors does not automatically grant any procedural or legal advantages to the company.

In practice, the court has discretion when deciding whether a particular circumstance constitutes an aggravating or mitigating factor, and how this should be assessed when determining liability or the sentence.

In practice, however, a sentence reduction is generally applied where there are mitigating factors, in particular in situations where the perpetrator of the criminal offence has paid full or substantial compensation for the damage caused by the criminal offence or has made a serious effort to compensate for such damage. This underlines the need for companies to consider cooperating throughout the entire process.

## 7. Non-trial resolution of bribery cases

The principle of effective remorse is applied to certain bribery-related offences. A person who has given a bribe at the request of the recipient and who reports the offence before it is discovered (or before the person learns the offence has been discovered) may be relieved of punishment. Even if punishment is waived, the briber may be prosecuted and handed down a conviction. The court may also choose to reduce the penalty rather than grant a complete exemption from punishment. Importantly, this exemption or reduction of punishment does not apply to the receiver of the bribe.

The only practical option to resolve bribery cases without a full trial under Croatian criminal law is to enter into a plea agreement. Such an agreement may be concluded for any criminal offence. The negotiation process can be initiated by either the accused or the State Attorney, with the parties determining the conditions under which guilt is admitted and the proposed sanction(s), including potential fines or other measures. Once finalised, the plea agreement must be scrutinised by the court, which will then render a judgment in accordance with the terms of the agreement.

## Key experts



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