Anti-Corruption Framework Review
in CEE & SEE

Wolf Theiss

Contents

Local insight global outlook.

Transparency International ("TI") has released its 2024 Corruption Perceptions Index ("CPI"), surveying 180 countries and territories. The CPI scores range from 0 (highly corrupt) to 100 (very clean), offering a snapshot of perceived public sector corruption across the globe. While the index is not without its limitations – it captures perceptions rather than absolute measures of corruption – it remains a leading benchmark for assessing corruption worldwide. In many ways, the CPI serves as a mirror, reflecting not only the visible cracks in public institutions but also the hidden fractures beneath the surface.

In 2024, no country achieved a perfect score. Over two-thirds of the countries surveyed fell below the midpoint of 50, with the global average stagnating at 43 – a figure that suggests there is still considerable room for improvement. This persistent trend paints a sobering picture: despite ongoing reform efforts, corruption remains a tenacious adversary, deeply embedded in the fabric of public institutions across much of the world.

Within the Wolf Theiss region, only four countries – Austria, Czech Republic, Poland and Slovenia – scored above the 50-point mark, while others continue to grapple with significant corruption challenges. While these figures may seem stable at first glance, a closer examination reveals a concerning downward trend. Austria, Croatia and Slovakia each saw a drop of more than three points, a significant shift in a metric where even small changes signal meaningful deterioration. According to TI, current corruption challenges reflect a combination of factors, including corruption's role in obstructing key policy areas such as climate initiatives and environmental protection, in turn contributing to perceptions of weakened governance and ethical standards across the region. At the same time, high-profile political scandals, the mismanagement of public funds and attempts to undermine independent media have corroded public trust, leaving institutions vulnerable to further ethical decay.

To mark the release of this year's CPI, we have prepared a comprehensive guide outlining the anti-corruption frameworks in place across several of our jurisdictions. This guide examines the legal structures, enforcement mechanisms and recent legislative developments aimed at combatting corruption in both the public and private sectors. It also highlights key trends, such as the evolving role of corporate liability, the use of whistleblower protections and the implementation of compliance programmes. By providing a clear overview of these frameworks, our guide aims to support businesses, legal professionals and policymakers in navigating the complex terrain of anti-corruption legislation, while promoting best practices and fostering a culture of transparency and accountability across the region.

Transparency International on progress by Austria

Austria has scored 67/100 in the 2024 Transparency Corruption Perceptions Index (CPI), with the country now ranked 25th out of 180 countries. This translates to a 4-point drop in Austria's score compared to the 2023 ranking and the country's worst performance since the CPI was first published in 2012. The main reasons for this lower ranking include the recurring political scandals that have resulted in several criminal investigations in recent years. Attempts to exert political influence over independent media are another reason for this year's ranking.

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

1. Bribery and corruption

In Austria, bribery is a punishable offence in both the public and private sectors.

With respect to bribery in the public sector, Austria distinguishes between acts or omissions (i) in violation of an official's duties and (ii) in performance of an official's duties.

Public officials are prohibited from receiving, demanding or accepting a promise of benefits in exchange for acting or refraining from acting in a way that either violates or is consistent with their duties (passive bribery). Likewise, the act of offering, promising or giving a bribe (active bribery) is also prohibited. For criminal liability to arise, the bribe need not target specific behaviour by the public official. Anyone who commits an offence in some way relating to the future performance of official duties is liable to prosecution.

However, an exception applies to certain benefits where there is no violation of official duties. Criminal liability does not extend to benefits that (i) are permitted by law, (ii) serve an official or objectively justified interest, (iii) serve charitable purposes over which the public official or a family member of the public official does not exercise decisive influence, and (iv) are considered small courtesy gifts in line with local or national customs.

The Austrian Criminal Code does not stipulate a specific monetary limit. Legal doctrine, however, advocates an upper limit of EUR 100, while the Supreme Court has adopted a case-by-case approach, so that even EUR 100 may be too high if the benefit is not customary.

Regarding private sector bribery, any person being an employee or representative of a company who, in the course of business transactions, demands, accepts, or accepts the promise of an advantage in return for the execution or omission of a legal act in breach of the person's duties is criminally liable. The same applies for any person who offers, promises or provides such advantage to a company employee or representative. Again, legal doctrine advocates an upper limit of EUR 100.

2. Corporate criminal liability (including bribery offences)

Under the Austrian Corporate Criminal Liability Act, a company can be liable for criminal offences committed by a decision-maker or employee under certain conditions. The main condition is that the offence must have been committed for the benefit of the company or must have violated obligations that apply to the company.

If this condition is met, both the offender and the company can be criminally prosecuted and convicted. In the event of a conviction, the company will be sentenced to a (conditional) fine, the amount of which will depend on the offence committed and the company's turnover.

3. Duty to report bribery

For private individuals and privately held companies, there is no obligation under Austrian law to report criminal offences to the law enforcement authorities. However, bribery and corruption can be reported by anyone – anonymously if preferred – through avenues such as the whistleblowing channel set up on the website of the Public Prosecutor's Office for the Prosecution of Economic Crimes and Corruption (reports can be made in German or in English).

4. Legal privilege and cross-border investigations

In Austria, some professional groups enjoy legal privilege. These include attorneys-at-law, psychiatrists, probation officers and media owners. These professionals have a right to refuse to testify – a right that cannot be circumvented by seizure and confiscation, interrogation of auxiliary staff or other means.

In the often highly complex proceedings concerning corruption and white-collar crime, the evaluation of evidence seized during house searches has often been delayed by several months due to the mere assertion of the existence of legal privilege.

5. Whisteblowing

Companies and legal entities in the public sector with at least 50 employees must establish an internal whistleblowing system. The whistleblowing system must protect the whistleblower's identity and allow whistleblowers to provide information in writing and/or orally.

No later than three months after receiving a whistleblowing report, the internal unit must inform the whistleblower of the follow-up measures that it has taken or intends to take or the reasons why the internal unit is not following up on the report.

6. Non-trial resolution of bribery cases

Austrian law stipulates a crown witness ("Kronzeuge") provision. If the offender – the crown witness – voluntarily makes a remorseful confession and provides information which contributes significantly to the clarification of an offence, he or she has the right to request that the public prosecutor's office impose alternative measures (e.g. a fine) instead of an indictment and withdraw the prosecution if the offender complies.

If a company cooperates with law enforcement, the result can be a discounted fine or even withdrawal from prosecution.

7. Non-trial resolution of bribery cases

There are no plea agreements in Austrian criminal law. Agreements regarding the severity of a sentence are illegal.

In general, the public prosecutor can withdraw from prosecution regarding minor offences and under certain circumstances may impose alternative measures (e.g. a fine) instead of an indictment. However, if the core criminal offence concerns active or passive bribery, this is only possible in the context of the crown witness programme described above.

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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 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. Whisteblowing

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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Transparency International on progress by Croatia

Croatia has scored 47/100 in the 2024 Transparency Corruption Perceptions Index (CPI), with the country now ranked 63rd 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. Whisteblowing

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.

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Transparency International on progress by the Czech Republic

The Czech Republic has scored 56/100 in the 2024 Transparency Corruption Perceptions Index (CPI), with the country now ranked 46th out of 180 countries. The Czech Republic's score is down by a single point on last year, highlighting ongoing concerns about public procurement processes, lobbying transparency and political influence over public institutions. Despite progress in anti-corruption efforts, bribery and related offences remain critical challenges for businesses and public institutions. The Czech branch of Transparency International has pointed to continuing difficulties in long-term strategic planning in terms of the Czech Republic's introduction of new anti-corruption laws, with regular delays in the implementation of new EU obligations.

Below, we provide a short overview of the legal framework governing criminal liability for bribery in the Czech Republic, 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, meaning there is no clear distinction between acts of bribery and lawful acts such as hospitality, gifts, travel expenses or meals.

Czech criminal law 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), 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. While there is no clear definition as to what constitutes public bribery, public bribery is generally deemed to occur whenever an activity pertains to things of general interest, as decided by the courts on a case-by-case basis.

Bribing a public official is an aggravating circumstance but is not a standalone offence. The offices that give rise to the status of "public official" are explicitly defined in the Criminal Code. In a bribery context, this definition is extended to include a list of foreign public officials.

2. Corporate criminal liability (including bribery offences)

A company is liable for a crime if it was committed by a wide spectrum of its personnel, including managers, employees, board members and shadow directors. Criminal liability is incurred not only if the crime is carried out in the company's interest but also if it is committed as part of its commercial activities.

A company cannot avoid criminal liability simply by changing its legal form, or by way of restructuring or transformation. For example, in mergers with another company, the criminal liability will fall proportionally on each of the acquiring and new companies. Criminal liability can also be transferred through a company's key assets. If a criminally liable company transfers key assets to another company, the company that acquired these assets might be found criminally liable.

3. Duty to report bribery

The duty to report a crime (reporting duty) is a legal obligation falling on all individuals and companies to immediately report or prevent altogether a catalogue of crimes to the enforcement authorities. Both active and passive bribery must be reported. Failure to report a crime is itself a criminal offence.

Individuals (whether employees or subcontractors of a company, or third parties) are personally required to report these crimes even where such reporting could incriminate the company. Apart from limited exceptions, Czech attorneys are the sole persons exempt from this reporting duty. If there is a risk that a reporting duty will be triggered, a Czech attorney should be engaged to review the issue.

4. Legal privilege and cross-border investigations

The concept of legal privilege (or attorney–client privilege) does not exist in the same form as in some other jurisdictions, with only Czech attorneys covered by legal privilege to the full extent. Czech attorneys are bound by a confidentiality obligation stemming from the Legal Profession Act and from constitutional rights to a fair trial of their clients and, consequently, must maintain confidentiality over all information which they have acquired in connection with their legal services to their clients.

Therefore, special care must be taken where companies conduct cross-border investigations as, mostly, foreign investigators do not enjoy legal privilege in the Czech Republic even if they are attorneys in their home country or if they are inhouse lawyers.

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 a whistleblowing investigator and must investigate reports diligently, impartially and independently.

Recent whistleblowing legislation has resulted in a significant rise in whistleblower activity. This can carry a risk of triggering a reporting duty on the part of those receiving the whistleblowing reports if they are not protected by legal privilege.

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

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

The only practical option for companies is to negotiate a plea agreement with the public prosecutor. Upon concluding negotiations, the company must admit that the facts as presented by the prosecution are accurate and agree to the proposed sanctions. The primary benefit of this instrument is that if the company can demonstrate that it took sufficient compliance measures, it may negotiate a more lenient sentence, such as a monetary penalty or a reduced sanction. The Parliament is currently considering a bill to formally introduce non-trial resolution agreements as an option in proceedings.

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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. Whisteblowing

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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Transparency International on progress by Romania

Romania has scored 46/100 in the 2024 Transparency Corruption Perceptions Index (CPI), which is unchanged from 2023. However, just like in other EU countries, Romania's efforts were not enough to prevent the country from dropping to 65th out of 180 countries in the overall ranking.

In 2024, Romania continued to combat corruption, despite a reduction in investigations. As far as recent legislative developments are concerned, in late 2024 Romania passed a new law to combat bribery of foreign public officials in international business transactions. This legislation came in light of Romania's accession process to the OECD and, among other things, it establishes in law the offence of bribery involving foreign officials. Romania's current national five-year anti-corruption strategy is due to elapse this year and discussions have started on the new, renewed anti-corruption national strategy.

Below, we give a very short overview of the main framework governing criminal liability for bribery in Romania and highlight some of the key aspects of national and international importance, including cross-border compliance and investigations considerations.

1. Bribery and corruption

Romania has several laws covering bribery offences, such as Law no. 286/2009 (the Romanian Criminal Code), Law no. 78/2000 (for the prevention, detection and sanctioning of corruption offences) and, more recently, Law no. 319/2024 (for combatting bribery of foreign public officials in international business transactions).

The general definition of a bribe is any unlawful sum of money or other undue benefit given in exchange for performing, omitting, speeding up or delaying a specific action. A bribe has no minimum value and there is no distinction between acts of bribery and lawful acts such as hospitality, gifts or travel expenses. What matters is the context in which such benefits are given.

Money, goods or similar valuables received as a bribe are subject to confiscation.

Bribery can be active (e.g. offering, promising, or giving a bribe) or passive (e.g. 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.

Bribery cases can often involve influencing public officials (in a broad sense), bribery-induced bid rigging in public tenders or trading in influence (bribing third parties to exert influence over public officials).

Both public and private bribery are criminalised. Where a bribery offence is committed in the private sector, the maximum penalty is reduced by a third.

Bribing a foreign official is also a crime under the recently enacted Law no. 319/2024, which subjects companies to higher sanctions than is the case under other forms of bribery provided for in the Romanian Criminal Code.

2. Corporate criminal liability (including bribery offences)

In 2004, Romania became the first country in the region to introduce corporate criminal liability. The main provision governing corporate criminal liability is Article 135 of the Romanian Criminal Code, which provides for generally straightforward triggers: "*(1) A legal entity, with the exception of the State and of public authorities, is criminally liable for criminal offences perpetrated in performing their object of activity or in their interest or name. (2) Public institutions are not criminally liable for criminal offences perpetrated in performing an activity which cannot constitute an object of private domain. (3) The criminal liability of a legal entity does not include the criminal liability of an individual who contributed to the perpetration of the same offence*".

A company cannot avoid criminal liability by changing its legal form, or by way of restructuring or transformation. Therefore, transactions can require especially tailored due dilligence.

3. Duty to report bribery

The duty to report bribery (reporting duty) is a legal obligation falling on certain individuals, in certain instances and in certain bribery-related contexts. Failure to report bribery is also a crime if certain conditions are met. In practice, then, particular care is needed when considering situations, other possible benefits or implications that could arise for companies, especially in cross-border cases.

Elsewhere, Article 291 of the Romanian Criminal Procedure Code requires that anyone holding a management position within a public authority, public institution or other public legal entity – as well as all persons with supervisory powers – who in exercising their duties learns that an offence has been committed, must immediately notify the prosecuting authorities of the offence and take measures.

4. Legal privilege and cross-border investigations

Confidentiality and attorney-client privilege (legal privilege) is attached to the information and communication shared between an attorney and a client, and to the legal services provided by the attorney to the client, as long as these comply with deontological and ethical standards. Attorneys have an obligation to keep professional secrecy over any aspect of a case entrusted to them, unless provided otherwise by law. Professional documents and paperwork that are in the attorney's custody or are located in the attorney's office are inviolable. Other practical advantages are also gained from legal privilege.

Special considerations apply to companies conducting cross-border investigations. For instance, foreign investigators and foreign in-house counsels do not enjoy legal privilege in Romania, irrespective of their legal qualification or in-house status in their home country (in Romania, in-house lawyers are not granted the same legal privilege and other benefits as external lawyers in an investigation).

5. Whisteblowing

In Romania, as in other EU countries, companies with at least 50 employees must implement a whistleblowing management system for employees to report (potential) breaches in specific areas, including bribery. Among other obligations, they must also appoint an investigator and investigate all reports in a diligent, impartial and independent manner.

The recent implementation of the EU Whistleblowing Directive in Romania has resulted in a rise in whistleblowing activity. This can also carry a risk of triggering a reporting duty on the part of the persons receiving the reports, who are not protected by legal privilege or exempt from the reporting duty. Therefore, how reporting channels are structured is very important.

6. Cooperation with prosecutors

Conducting an internal investigation and being willing to cooperate with the authorities, or even disclosing any misconduct, can arguably be a sign of effective compliance. However, with the exception of certain bribery offences and bribery-related contexts, companies do not derive automatic immunity or any other statutory benefit from voluntary self-reporting or cooperating with the prosecuting authorities. The law does not make direct provision for cooperation between authorities and companies. Therefore, companies must rely on the mutual trust built up between their attorneys and prosecution authorities. In this respect, attorneys' experience from previous successful cases can also be of benefit to new clients and in new cases.

7. Non-trial resolution of bribery cases

In Romania, the only non-trial resolution tool available is a plea agreement, which can be agreed between the defendant and the prosecutor for crimes carrying a penalty of up to 15 years' imprisonment. Therefore, this tool should also be available for bribery offences.

By the same vein, companies can also negotiate a plea agreement with the case prosecutor. Upon conclusion of negotiations, the company must admit that the facts to which it is pleading guilty are accurate and agree to the proposed sanctions. One of the benefits of this tool is that the negotiations may lead to the company being handed down a monetary sanction only and may also secure a more lenient sanction. The plea agreement concluded by the defendant and the case prosecutor must then be confirmed by the criminal court. Our team forms part of several task forces that are proposing to broaden the range of non-trial resolution options. Cross-border aspects can also be important and should be assessed in conjunction with more local concerns.

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Transparency International on progress by Serbia

Continuing the country's declining trend in recent years, **Serbia** has scored 35/100 in the 2024 Transparency Corruption Perceptions Index (CPI), positioning it 105th out of 180 countries. The main reasons cited for Serbia's ranking in the 2024 CPI were the perceived dominance of the executive and institutional vulnerabilities to corruption. Despite making progress in various anti-corruption efforts, a lack of effective implementation of introduced policies and the slow enforcement of the applicable legislative framework remain a serious challenge.

Below, we provide a short overview of the legal framework governing criminal liability for bribery in Serbia, 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, meaning there is no clear distinction between acts of bribery and lawful acts such as hospitality, gifts, travel expenses or meals.

Serbian criminal law comprehensively covers all forms of bribery. Bribery can be active (offering, promising or giving a bribe) or passive (accepting or soliciting a bribe). Facilitation payments are 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).

Both public and private bribery are criminalised. Whereas public bribery relates to criminal offences involving public officials, private bribery relates to commercial and other types of legal entities.

While the elements for incrimination are somewhat similar, bribery involving public officials is generally punishable by more serious criminal sanctions. The Criminal Code explicitly defines the offices considered as "public officials." In the context of bribery, a similar definition also extends to foreign public officials.

2. Corporate criminal liability (including bribery offences)

A company is liable for a crime if it was committed by an "authorised person" with the intention of deriving a benefit for the company. The term "authorised person" can encompass a wide spectrum of personnel, including managers, employees and board members. Companies are also liable for crimes committed by another individual, albeit for the benefit of the company, as a result of a lack of supervision and oversight by an "authorised person".

A company cannot avoid criminal liability simply by changing its legal form, or by way of restructuring. For example, in mergers with another company, any criminal sanctions that have been imposed will be enforced against the legal successor. Similarly, a company will be held liable for any criminal offence committed before or during the insolvency proceedings.

3. Duty to report bribery

The Serbian Criminal Code defines the situations in which failing to report a criminal offence is considered a crime. One of these situations is where an authorised person at a legal entity knowingly fails to report a criminal offence carrying a custodial sentence of at least five years, of which he/she became aware in the course of his/her duties. In such case, failure to report the criminal offence would constitute a crime.

The exceptions from this reporting obligation are quite narrow, broadly referrable to the perpetrator's relatives, as well as the defence attorneys, physicians and religious exponents who take confession. Accordingly, if there is a risk that a reporting duty will be triggered, a Serbian attorney should be consulted to review the issue.

4. Legal privilege and cross-border investigations

The concept of legal privilege (or attorney–client privilege) does not exist in the same form as in some other jurisdictions, and is instead expressed through the concept of "attorney secrets". Serbian attorneys are obligated to keep as a professional secret all information conveyed by the client or learned in any other way during and after the preparation and provision of legal services.

There are various procedural laws protecting attorney secrets, and a common feature of all proceedings is that attorneys cannot be forced to reveal facts which fall under attorney secret.

Therefore, special care must be taken where companies conduct cross-border investigations as, mostly, foreign investigators do not enjoy legal privilege in Serbia. In this respect, information exchanged with other local service providers or inhouse lawyers would not be subject to the same degree of legal protection as information exchanged with qualified attorneys-at-law.

5. Whisteblowing

In addition to other obligations under Serbian whistle-blowing regulations which are incumbent on all companies employing or engaging personnel, companies with more than 10 employees/engaged personnel must adopt a specific internal policy setting out the internal whistleblowing procedure This must be made available to all employees and must ensure that any whistleblowing report will be investigated impartially and independently.

Employees/engaged personnel training with respect to their rights conferred by whistleblowing legislation has resulted in an evident rise in whistleblower activity. For this reason, appropriate procedures should be put in place, taking into account the risk of triggering a reporting duty on the part of the authorised person receiving the whistleblowing reports.

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 law does not directly make provision for a specific framework for cooperation between the prosecution authorities and companies wishing to cooperate. Therefore, companies must rely on the mutual trust built up between their attorneys and prosecution authorities.

Nevertheless, while the company does not derive any automatic statutory benefit from voluntary self-reporting or cooperating with prosecutors, it may potentially be exempted from criminal sanctions if it (i) reveals and reports a criminal offence before it learns that criminal proceedings have been instigated, and (ii) voluntarily remedies any resulting damage or returns any undue benefits acquired.

7. Non-trial resolution of bribery cases

Information on non-trial resolutions of bribery cases, including out-of-court settlements, is scarce.

When it comes to criminal offences punishable by monetary fines or imprisonment of up to three years, the public prosecutor may decide to formally drop the charges against a company if it is deemed that conducting criminal proceedings would not be “purposeful”. The public prosecutor will consider whether the company (i) reported the criminal offence before learning that the prosecution authorities were aware of the criminal offence, (ii) prevented or compensated damage and remedied any other consequences of the criminal offence, (iii) voluntarily returned any proprietary gain obtained through the criminal offence, (iv) has no assets or is subject to insolvency proceedings.

Serbian law also allows the possibility to negotiate a plea agreement with the public prosecutor. The agreement must be confirmed by the court and must contain a clear and voluntary admission of having committed the criminal offence, as well as confirmation of the criminal sanction agreed with the public prosecutor. While this legal mechanism may offer various benefits over criminal proceedings in which the outcome is certainty, its full potential does not yet appear to have been realised in connection with bribery-related offences.

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Transparency International on progress by the Slovak Republic

The Slovak Republic has scored 49/100 in the 2024 Transparency Corruption Perceptions Index (CPI), with the country now ranked 59th out of 180 countries. This is a noticeable drop from last year's score of 54/100, which saw the Slovak Republic ranked in 47th place.

In 2024, amendments to criminal law brought about the introduction of significant changes to the prosecution of corruption offences. This reform included a reduction in criminal penalties for corruption-related crimes, along with a decrease in statutory limitation periods. For instance, for more serious offences carrying a maximum prison sentence of more than ten years, the limitation period was reduced from 20 to 15 years. Additionally, the reform also led to the abolition of the Special Prosecutor's Office, which had been responsible for combatting corruption, with its powers being transferred to regional prosecutors' offices.

Below, we provide a short overview of the legal framework governing criminal liability for bribery in the Slovak Republic, 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, meaning there is no clear distinction between acts of bribery and lawful acts such as hospitality, gifts, travel expenses, or meals. The amount of the bribe is considered together with other circumstances which determine the degree of severity of the crime. However, no bribes can be tolerated in the exercise of public authority, even if they are of negligible value.

Slovak criminal law 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), 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. Public bribery is explicitly defined as an offence relating to matters of general interest and is regulated as a standalone offence. Likewise, bribing a public official is also a standalone offence, rather than merely an aggravating circumstance. The offices that give rise to the status of "public official" are explicitly defined in the Criminal Code, as are those giving rise to the status of foreign public officials who are referred to only in relation to bribery offences.

2. Corporate criminal liability (including bribery offences)

A company is liable for a crime if it was committed in its favour, in its name, within its activities or through it. Liability arises if the crime is committed by an executive body or a member of that body, a person performing control or supervisory functions within the company, or any other person authorised to represent or make decisions on behalf of the company. A company cannot avoid criminal liability simply by changing its legal form, or by way of restructuring or transformation. For example, in mergers with another company, the criminal liability will fall proportionally on each of the acquiring and new companies. Criminal liability can also be transferred through a company's key assets. If a criminally liable company transfers key assets to another company, the company that acquired these assets might be found criminally liable.

3. Duty to report bribery

The duty to report a crime (reporting duty) is a legal obligation to immediately report (or prevent) certain offences to the enforcement authorities. This applies not only to crimes carrying a maximum prison sentence of 10 years or more but also explicitly to any corruption-related offences. This falls on all individuals and companies and includes both active and passive bribery. Failure to report is a crime.

Individuals (whether employees or subcontractors of a company, or third parties) are personally required to report these crimes even where such reporting could incriminate the company. Apart from limited exceptions (e.g. a person entrusted with pastoral duties or a healthcare worker), Slovak attorneys are the sole persons exempt from this reporting duty. If there is a risk that a reporting duty will be triggered a Slovak attorney should be engaged to review the issue.

4. Legal privilege and cross-border investigations

The concept of legal privilege (or attorney–client privilege) does not exist in the same form as in some other jurisdictions, with only Slovak attorneys covered by legal privilege to the full extent. Slovak attorneys are bound by a confidentiality obligation stemming from the Legal Profession Act and from constitutional rights to a fair trial of their clients and, consequently, must maintain confidentiality over all information which they have acquired in connection with their legal services to their clients.

Therefore, special care must be taken where companies conduct cross-border investigations as, mostly, foreign investigators do not enjoy legal privilege in the Slovak Republic even if they are attorneys in their home country or if they are inhouse lawyers.

5. Whisteblowing

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

Recent whistleblowing legislation has resulted in a significant rise in whistleblower activity. This can carry a risk of triggering a reporting duty on the part of those receiving the whistleblowing reports if they are not protected by legal privilege.

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

There is limited practice of non-trial resolutions of bribery cases. The only practical option for companies is to negotiate a plea agreement with the public prosecutor. Upon concluding negotiations, the company must admit that the facts as presented by the prosecution are accurate and agree to the proposed sanctions. The primary benefit of this instrument is that if the company can demonstrate that it took sufficient compliance measures, it may negotiate a more lenient sentence, such as a monetary penalty or a reduced sanction.

Slovak law recognises the concept of effective remorse, but it generally does not apply to corruption offences. An exception exists for active remorse (known in law as “special effective remorse”), whereby a perpetrator who has provided or promised a bribe solely upon request and voluntarily reported it to law enforcement authorities without delay may be exempt from liability. This applies only to natural persons.

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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.

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Wolf Theiss is one of the largest and most respected law firms in Central, Eastern and Southeastern Europe (CEE/SEE). We opened our first office in Vienna over 60 years ago. Our team now brings together over 390 lawyers from a diverse range of backgrounds, working in offices in 13 countries throughout the CEE/SEE region and a central European hub in Brussels. During that time, we have worked on many cases that have broken new ground.

We concentrate our energies on a unique part of the world: the complex, fast-moving markets of the CEE/SEE region. This is a fascinating area, influenced by a variety of cultural, political and economic trends. We enjoy analysing and reflecting on those changes, drawing on our experiences, and working on a wide range of domestic and cross-border cases.

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