



ONE FIRM
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ANTI-CORRUPTION REGULATION SURVEY OF 42 COUNTRIES

2019

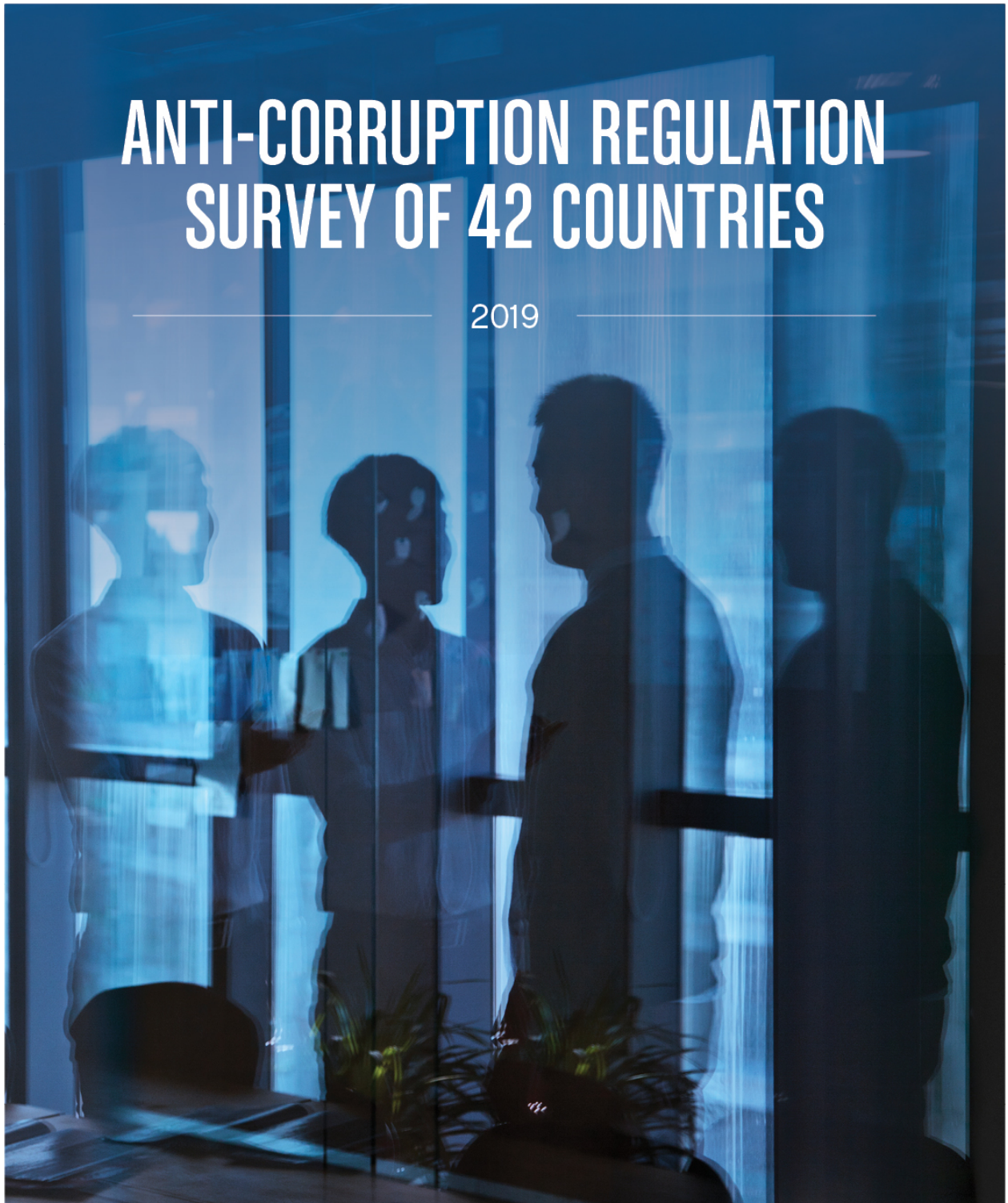


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Introduction to the 2019 Anti-Corruption Regulation Survey

Welcome to the 2019 edition of the Jones Day Anti-Corruption Regulation Survey of Select Countries. Since the 2017–2018 edition of this Survey, there has continued to be an increasing awareness among multinational companies of the significance of anti-corruption regulations in foreign countries and the potential risks of violating these regulations or of being associated with companies or individuals that have violated such regulations.

A number of countries made significant changes to their anti-corruption regulations in 2018 and 2019 to date, including, among others, Chile, India, Indonesia, Italy, Malaysia, Myanmar, Philippines, South Korea, Thailand and Vietnam. Furthermore, since 2018, there have been significant developments in several countries related to anti-corruption, especially with respect to enforcement practice and policy, such as in Brazil, South Africa, the United Kingdom and the United States. Other countries included in this Survey have indicated proposed amendments to anti-corruption regulations, the restructuring of anti-corruption enforcement bodies and enhanced coordination with the anti-corruption authorities of other jurisdictions. The 2019 edition of this Survey includes Qatar, a jurisdiction that had not been covered in previous years.

This Survey is intended to provide an overview of the complex and evolving anti-corruption regulations in the 42 countries covered herein. Ways in which this Survey may be useful will vary depending on a company's situation and needs. A few examples follow:

- **Due diligence.** This Survey may be useful to give a sense of key aspects of anti-corruption regulations that apply to potential M&A targets and joint venture partners.
- **Prospective business partners.** If a company is considering entering into a relationship with a business partner (e.g., vendor or customer) from another country, this Survey may be useful in giving a sense of potential areas of risk in relation to the partner's local business activities.
- **Considering efficacy of compliance programs.** This Survey may be helpful in considering whether and how to develop, assess and enhance an anti-corruption compliance program, whether on a national, regional or global basis. As a starting point, one needs to have an understanding of whether a particular action (for example, certain gifts or entertainment) may potentially violate local regulations.

In this Survey, the countries are organized by region and then alphabetically by country. Whereas previous editions of this Survey subdivided Asian jurisdictions into three regions, these countries have been combined into one "Asia Pacific" region in the 2019 edition. For each country, the same topics are covered. They include, among others: (i) whether bribery of domestic and foreign public officials is prohibited; (ii) the meaning of the term "public official"; (iii) whether and to what extent gifts, entertainment and travel benefits are regulated; (iv) issues in enforcement; and (v) recent developments.

This Survey also sets forth the most recent CPI scoring and ranking information for each of the surveyed countries. "CPI" refers to the Corruption Perceptions Index, published by Transparency International, which scores and ranks countries around the world based on perceived levels of corruption. CPI scores range from 100 (very clean) to 0 (highly corrupt). In the ranking issued on January 29, 2019, the CPI ranked 180 countries based on their scores.

In addition, this Survey identifies major international conventions to which each of the countries is a party. These conventions are defined in the Glossary.

This Survey may be useful as a starting point to give some sense of the scope and extent of anti-corruption regulations in a particular country, but it is not a substitute for a review of the actual regulations in light of a particular set of facts. This Survey should not be construed as legal advice on any specific facts or circumstances.

If questions come up in relation to the anti-corruption regulations of a specific country, the last section of this Survey lists contacts at Jones Day who would be in a position to provide information based on specific facts and circumstances or provide guidance with respect to contacting local counsel. If questions come up in relation to multiple jurisdictions, the Jones Day team, including its local contacts where appropriate, can effectively coordinate to provide a comprehensive and focused response.

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GLOSSARY

Term	Meaning
AUCPCC	African Union Convention on Preventing and Combating Corruption
CPI	Corruption Perceptions Index published by Transparency International ranks countries by perceived levels of corruption as determined by expert assessments and opinion surveys. In the ranking issued on January 29, 2019, 180 countries were ranked by CPI score. The CPI score ranges from 100 (very clean) to 0 (highly corrupt).
FCPA	U.S. Foreign Corrupt Practices Act of 1977 (15 U.S.C. §§78m, 78dd-1 to -3, 78ff)
OAS	Organization of American States
OAS Convention	OAS Inter-American Convention against Corruption. Adopted in March 1996.
OECD	Organisation for Economic Co-operation and Development
OECD Convention	OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. 43 countries have acceded as of May 2017. The OECD cannot force implementation; it only monitors implementation.
SADCPAC	Southern African Development Community Protocol Against Corruption
UNCAC	United Nations Convention Against Corruption. It covers criminalization of corruption, prevention, cooperation and information exchange and asset recovery. As of June 26, 2018, there are 140 signatories and 186 parties to the UNCAC, including the European Union.

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Region		Africa
Country		Kenya
2018 CPI	Rank	144/180
	Score	27
The Law on Bribery	Bribery of Domestic Officials	<p>Kenya has a series of laws that cover bribery. These include: the Constitution of Kenya, 2010 (the “Constitution”), the Penal Code, the Anti-Corruption and Economic Crimes Act, the Public Officers and Ethics Act, the Elections Act, the Leadership and Integrity Act, the Bribery Act 2016 and international treaties.</p> <p>The principal statutes that cover bribery are the Anti-Corruption and Economic Crimes Act of 2003 (the “ACEC Act”) and the Bribery Act 2016 (the “Bribery Act”).</p> <p>Constitution</p> <p>Chapter 6 of the Constitution deals with leadership and integrity. This Chapter applies mainly to state officers. Article 76 (1) of the Constitution provides that a gift or donation to a state officer on a public or official occasion is a gift or donation to the Republic and shall be delivered to the State unless exempted under an Act of Parliament. Any state officer who contravenes this Article can be removed from office and disqualified from holding any other public office.</p> <p>The Penal Code</p> <p>The Penal Code largely covers persons employed in the public service. It also covers any person who induces, attempts to induce or influences a public officer to fail his/her duty. Section 102A of the Penal Code provides that a person convicted of an offense is liable on conviction to a fine not exceeding KES 1 million or to imprisonment for a term not exceeding 10 years or to both.</p> <p>The Public Officer Ethics Act (the “POE Act”)</p> <p>The POE Act mainly covers public officers. Section 11 of the POE Act prohibits a public officer from using his/her office to improperly enrich himself/herself or others. It provides that a public officer shall not, except as allowed under the POE Act, accept or request gifts or favors from a person. It also provides that a public officer shall not improperly use his/her office to acquire land or other property for himself/herself or another person, whether or not the land or property is paid for. It further provides that a public officer shall not, for the personal benefit of himself/herself or another, use or allow the use of information that is acquired in connection with the public officer’s duties and that is not public.</p> <p>The Elections Act</p> <p>The Elections Act applies to all candidates, voters and any person who abets, counsels or procures the commission of or attempts to aid, abet, counsel or procure the commission of an election offense. A person who commits an offense of bribery or treating is liable on conviction to a fine not exceeding KES 1 million or to imprisonment for a term not exceeding six years or to both.</p> <p>The Leadership and Integrity Act (the “LIA”)</p> <p>The LIA prohibits a state officer from using the office to unlawfully or wrongfully enrich himself/herself or any other person or accepting a personal loan or benefit that may compromise the state officer in carrying out his/her duties. A state officer may be suspended from office pending the investigation and determination of allegations made against that state officer where such suspension is considered necessary.</p>

International Treaties

Article 2 of the Constitution provides that any treaty or convention ratified by Kenya shall form part of the law of Kenya. Kenya has ratified the UNCAC, so therefore the UNCAC constitutes part of Kenya's laws. Other international treaties on bribery and corruption that are applicable in Kenya are the AUCPCC and the International Code of Conduct for Public Officials.

The Bribery Act

The Bribery Act is modeled on the UK Bribery Act and has been enacted to aid in the prevention, investigation and punishment of bribery in Kenya, with particular focus on the private sector. "Bribery" is defined in the Bribery Act as the offer to give financial advantage to public officers or private company employees directly or indirectly through third parties with the knowledge that the acceptance of the financial advantage would constitute the improper performance of a function.

Bribery offenses under the Bribery Act are wide ranging, and the Ethics and Anti-Corruption Commission (the "Commission") has, through the Bribery Act, been granted a more robust mandate to combat bribery in the public and private sectors.

The Bribery Act imposes a mandatory duty on private and public persons to report to the Commission, within 24 hours, any knowledge or suspicion of instances of bribery. Failure to comply with this duty is an offense. In addition, it is obligatory for public and private persons to put in place measures to prevent bribery in their organizations. Failure to comply with these provisions constitutes an offense, and certain offenses extend liability to senior management, senior officers and directors should a legal person be found guilty. Further, a private entity commits an offense if a person associated with it bribes another person intending to obtain or retain business for the private entity or an advantage in the conduct of business by the private entity.

The Bribery Act operates extra-territorially, which means that prohibited conduct by a Kenyan citizen or a private or public entity that takes place outside of Kenya may constitute an offense under the Bribery Act.

The general penalties applicable under the Bribery Act upon conviction are:

- imprisonment for a term not exceeding 10 years or a fine not exceeding KES 1 million;
- five times the amount of any quantifiable benefit gained by the person or the quantifiable loss suffered by another person or both; and
- a fine not exceeding KES 5 million.

The Anti-Corruption and Economic Crimes Act (the "ACEC Act")

The ACEC Act covers all persons, including persons in the private and public sector. Section 48 of the ACEC Act provides that a person convicted of an offense under Part V of the ACEC Act shall be liable to a fine not exceeding KES 1 million or to imprisonment for a term not exceeding 10 years or to both and an additional mandatory fine if, as a result of the conduct that constituted the offense, the person received a quantifiable benefit or any other person suffered a quantifiable loss. The ACEC Act was amended by the Statute Law Amendment Act, which inserted a provision that stated that a public officer or state officer who is charged with corruption or an economic crime shall be suspended, at half pay, with effect from the date of the charge until the conclusion of the case, provided that the case shall be determined within 24 months.

Offering a bribe: It is a crime for a person to corruptly give, offer or agree to give or offer a benefit (ACEC sec. 39(3) (b)).

		<p><u>Receiving a bribe:</u> It is a crime for a person to corruptly receive or agree to receive a benefit (ACEC sec. 39(3) (a)).</p> <p>“Corruptly receiving or offering” pertains to benefits that are inducements or rewards for an agent to do or not do something related to the agent’s principal or show favor or disfavor in relation to the affairs of the principal.</p> <p>The Public Procurement and Disposal Act of 2005 (the “PPDA”) prohibits corrupt practices in procurement proceedings; a maximum fine of KES 4 million or 10 years imprisonment, or both, and public officers will be disqualified from public office.</p> <p><u>Corporate liability:</u> Under Kenyan law, a legal “person” includes a company, association or body of natural persons. Fines imposed on corporate persons who break the law may be more severe than those imposed on natural persons. For example, under the PPDA, the maximum fine for a corporation is KES 10 million while for an individual it is KES 4 million.</p> <p>The Proceeds of Crime and Anti-Money Laundering Act 2009 (“POCAMLA”)</p> <p>POCAMLA was one of Kenya’s first steps in aligning its domestic anti-corruption laws with global anti-money laundering and financial crime standards. POCAMLA established the Financial Reporting Centre (the “FRC”) as a regulatory authority with its principal objectives being to assist in the identification of the proceeds of crime and combating money laundering.</p> <p>Money laundering is an offense under Section 3 of POCAMLA, which is defined as:</p> <p>“a person who knows or who ought reasonably to have known that property is or forms part of the proceeds of a crime, and:</p> <ol style="list-style-type: none"> a) Enters into any agreement or engages in any arrangement or transaction with anyone in connection with that property, whether that agreement, arrangement or transaction is legally enforceable or not; or b) Performs any other act in connection with such property, whether it is performed independently or with any other person, <p>whose effect is to:</p> <ol style="list-style-type: none"> i. conceal or disguise the nature, source, location, disposition or movement of the said property or the ownership thereof or any interest which anyone may have in respect thereof; or ii. enable or assist any person who has committed or commits an offense, whether in Kenya or elsewhere to avoid prosecution; or iii. remove or diminish any property acquired directly, or indirectly, as a result of the commission of an offense.” <p>“Proceeds of a crime” is defined in Section 2 of POCAMLA as:</p> <p>“any property or economic advantage derived or realized, directly or indirectly, as a result of or in connection with an offense irrespective of the identity of the offender and includes, on a proportional basis, property into which any property derived or realized directly from the offense was later successively converted, transformed or intermingled, as well as income, capital or other economic gains or benefits derived or realized from such property from the time the offense was committed.”</p> <p>The failure to report suspicions regarding the proceeds of a crime is also an offense under POCAMLA.</p> <p>The powers given to the FRC under POCAMLA are limited in the sense that the FRC was restricted to performing the administrative tasks of receiving annual reports and citing irregularities to its partner organizations. Under POCAMLA, the FRC lacked the power of enforcement. The Proceeds of Crime and Anti-Money Laundering (Amendment) Act 2017 extends the powers of the FRC to include:</p> <ul style="list-style-type: none"> • Seeking revocation of licenses for financial and real estate institutions that are used as conduits for money laundering activities; • Issuing warnings and directions to reporting institutions;
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		<ul style="list-style-type: none"> • Barring persons from employment with reporting institutions; • Issuing orders to a competent supervisory authority requesting the suspension or revocation of a license or registration of a specified reporting institution whether entirely, in a specified capacity or extending to any employee of the reporting institution. • Apart from financial organizations, the powers of the FRC extend to nongovernmental organizations, non-financial entities such as real estate agencies, those dealing in precious stones, casinos and certain professions such as accountants.
	<p>Bribery of Foreign Officials</p>	<p>The ACEC Act, which prohibits bribery of “agents,” does not distinguish between foreign and domestic officials. The bribery of foreign officials, who are agents of their home government, is criminalized under the ACEC Act.</p> <p>The Bribery Act is the first Kenyan statute to criminalize bribery of foreign public officials. Definitions within Kenyan statutes had previously been interpreted, in accordance with the Constitution, to apply only to Kenyan officers.</p> <p>Under the Bribery Act, Section 8 prohibits the bribing of a foreign public official with the intention of influencing that official’s capacity. Section 2 states that a person commits the offense of bribery of a foreign public official if:</p> <ul style="list-style-type: none"> • Directly or through a third party, the person promises or gives any financial or other advantage to the foreign official or to another person at the foreign official’s request or with the foreign official’s assent or acquiescence; and • The foreign official is neither permitted nor required by the written law applicable to him or her to be influenced in his/her capacity as a foreign public official by the offer, promise or gift. Section 8 further elaborates that influencing a foreign official means influencing such foreign official in the performance of his/her functions, including: <ul style="list-style-type: none"> ○ any omission to exercise those functions; and ○ any use of the position as such an official, even if not within the official’s authority. <p>For purposes of subsection (2)(b), the written law applicable to a foreign official shall be:</p> <ul style="list-style-type: none"> • Where the performance of the functions intended to be influenced would be subject to the law of Kenya—the law of Kenya; • Where the official is an agent of a public international organization—the applicable written rules of that organization; or • In any other case—the law of the country or territory which applies to the foreign official so far as that law is contained in: <ul style="list-style-type: none"> ○ any provision made by or under legislation, applicable to the country or territory concerned; or ○ any applicable judicial decision which is evidenced in published written sources.
	<p>Commercial Bribery</p>	<p>The ACEC Act covers commercial bribery as well as public bribery. Company employees are “agents” of the company, and the ACEC Act prohibits the bribery of all agents.</p> <p>Section 9 (1) of the Bribery Act places the obligation on private companies of ensuring that they put in place procedures, taking into account their size and nature of operations, for the prevention of bribery and corruption. Failure to do so is an offense for which directors and senior officers of the company are liable.</p> <p>Section 10 of the Bribery Act provides that a private entity commits an offense under this section if a person associated with the private entity bribes another person intending to obtain or retain:</p> <ul style="list-style-type: none"> • business for the private entity; or • advantage in the conduct of business by the private entity. <p>A “private entity” is defined to mean any person or organization, not being a public entity, and includes a voluntary organization, charitable organization, faith-based organization,</p>

		<p>religious-based organization, community-based organization, company, partnership, club and any other body or organization howsoever constituted, and includes:</p> <ul style="list-style-type: none"> • a body which is incorporated under the laws of Kenya and which carries on business in or outside of Kenya; • any other body corporate however established which carries on business, entirely or partially within Kenya; • a charity or such organization established under the law of Kenya or one established for any other purpose; • a partnership which is formed under the law of Kenya and which carries on business, in or outside of Kenya; • any other business partnership in Kenya.
<p>Definitions</p>	<p>Government Employee</p>	<p>The term “public officer” is defined under the LIA by reference to the meaning assigned to it under Article 260 of the Constitution. Article 260 of the Constitution defines “public officer” as any state officer or any person, other than a state officer, who holds a public office. The term “public office” is defined under the Constitution to mean an office in the national government, a county government or the public service, if the remuneration and benefits of the office are payable directly from the Consolidated Fund or directly out of money provided by Parliament. The term “public officer” is defined under the POE Act to mean “any officer, employee or member, including an unpaid, part-time or temporary officer, employee or member, of any of the following:</p> <ul style="list-style-type: none"> • The Government or any department, service or undertaking of the Government; • The National Assembly or the Parliamentary Service; • A local authority; • Any corporation, council, board, committee or other body which has power to act under and for the purposes of any written law relating to local government, public health or undertakings of public utility or otherwise to administer funds belonging to or granted by the Government or money raised by rates, taxes or charges in pursuance of any such law; • A co-operative society established under the Co-operative Societies Act; • A public university; • Any other body prescribed by regulation for the purposes of this paragraph.” <p>However, under the ACEC Act’s provisions on bribery, the key term is “agent” and not “public officer.” “Agent” means “a person who, in any capacity, and whether in the public or private sector, is employed by or acts for or on behalf of another person....” (ACEC sec. 38(2)).</p> <p>The Bribery Act states in Section 4 that it applies to the public, public officers and private entities. Therefore, public officers are liable if found guilty of an offense under the Bribery Act such as giving or receiving a bribe.</p> <p>Section 14 of the Bribery Act places a duty on every state officer, public officer or any other person holding a position of authority in a public or private entity to report to the Commission within a period of 24 hours any knowledge or suspicion of instances of bribery. Failure to do so amounts to an offense under the Bribery Act.</p>
	<p>Gratification (Gifts/ Entertainments/ etc.)</p>	<p>A “benefit” could include any gift, loan, fee, reward, appointment, service, etc. The LIA provides that gifts and donations to a public officer would be donations to the State and should be delivered to the State instead. Generally, public officers may not accept or request gifts in connection with the execution of public functions. The Public Officer Ethics Act, however, allows officers to accept non-monetary gifts that do not exceed KES 20,000; other types of gifts given to officers in their official capacity would be treated as gifts to the public officer’s organization. Public officers may also accept gifts from relatives or friends on special occasions recognized by custom.</p> <p>The LIA prohibits a state officer from:</p> <ul style="list-style-type: none"> • Accepting or soliciting gifts, hospitality or other benefits from a person who: (i) has an interest that may be achieved by the carrying out or not carrying out of the state officer’s duties; (ii) carries on regulated activities with respect to which the

		<p>state officer’s organization has a role; or (iii) has a contractual or legal relationship with the state officer’s organization;</p> <ul style="list-style-type: none"> • Accepting gifts of jewelry or other gifts comprised of precious metals or stones, ivory or any other animal part protected under the Convention on International Trade in Endangered Species of Wild Fauna and Flora; or • Accepting any other type of gift specified by the Commission. <p>The LIA provides that a state officer may receive a gift given to him/her in an official capacity provided that the gift: (a) is within the ordinary bounds of propriety, a usual expression of courtesy or protocol and within the ordinary standards of hospitality; (b) is not monetary; and (c) does not exceed such value as may be prescribed by the Commission.</p> <p>The Bribery Act prohibits the giving and receiving of bribes. The Bribery Act refers to a bribe as an offer, promise or financial or other advantage to a person who knows or believes the acceptance of the financial or other advantage would itself constitute the improper performance of a relevant function or activity.</p> <p>Section 2 of the Bribery Act defines advantage to include gifts. Additionally, a person commits an offense of bribing a foreign public official if the foreign official is neither permitted nor required by the written law applicable to him/her to be influenced in his/her capacity as a foreign public official by the offer, promise or gift.</p>
<p>Current Status</p>	<p>Enforcement Body</p>	<p>The Parliament enacted the Ethics and Anti-Corruption Commission Act, Act No. 22 of 2011 in August 2011, which resulted in the disbanding of the Kenya Anti-Corruption Commission (the “KACC”) and replacing it with the Commission as the new investigatory body. The KACC, which was under heavy political influence, was not effective in cases involving high-level officials. The Commission has the authority to prosecute crimes (although it still forwards most cases to the Director of Public Prosecutions (the “DPP”), is independent from politics (the head of the agency is appointed for a six-year non-renewable term) and has the authority to engage in out-of-court settlements.</p> <p>Under Section 23 of the ACEC Act, the Secretary of the Ethics and Anti-Corruption Commission (the “Secretary”) or a person authorized by the Secretary may conduct an investigation on behalf of the EACC.</p> <p>Police officers also have wide powers to conduct investigations under the National Police Service Act (the “NPS Act”), including requiring any person whom they reasonably believe has information to assist in the investigation of an alleged offense by appearing before them at a police station or police office in the county where that person resides or is currently present. The Directorate of Criminal Investigations (the “DCI”), which is part of the National Police Service, is the department principally responsible for criminal investigations.</p> <p>Pursuant to Gazette Notice No. 10263 published on December 9, 2016, the High Court of Kenya has an Anti-Corruption and Economic Crimes division specifically tasked to deal with cases pertaining to corruption and economic crimes.</p> <p>Further, several codes of conduct have been enacted to prevent bribery by public officers, including the Public Service Commission Code of Conduct, the Judicial Service Commission Code of Conduct and the Code of Conduct and Ethics for Members and Staff of the Kenya Anti-Corruption Commission (now the Commission).</p>
	<p>Issues in Enforcement</p>	<ul style="list-style-type: none"> • Lack of commitment by senior officials who see no difference between their personal gains and official duties. • Ineffective enforcement of whistleblower protections, despite the existence of the Witness Protection Act. These include lack of incentives for whistleblowers leading to successful enforcement of the provisions of the Bribery Act. Similarly, the penalty charged for disclosing information of whistleblowers and informants, leading to the harassment or intimidation of the informants, is not sufficient (a fine not exceeding KES 1 million under the Bribery Act) and thus may not deter such conduct.

		<ul style="list-style-type: none"> • The perception that the DPP is unwilling to prosecute corruption cases involving high-level government officials because of political pressure and the lack of insulation from such pressure.
	<p>Recent Movement</p>	<ul style="list-style-type: none"> • In 2019, KES 1.5 billion was allegedly lost in fictitious transactions, irregular award of tenders and manipulation of systems at the National Health Insurance Fund. Consequently, the Chief Executive Officer was suspended from duty. Similarly, 21 suspects were arrested to answer to seven charges relating to fraud, deception and abuse of office, among others. • In 2018, KES 9 billion of public funds was stolen and allegedly paid to ghost suppliers. Commercial banks pleaded guilty of facilitating the scandal and entered into a plea bargaining agreement with the Director of Public Prosecutions to pay a KES 300 million fine. 40 individuals were charged, including former Youth Public Service Principal Secretary Lilian Omollo and former National Youth Service Director Richard Ndubai, with fraud, money laundering and abuse of office. • In 2018, National Cereals and Produce Board (“NCPB”) officials were found supplying large quantities of cheap imported maize at the expense of Kenyan farmers, who are still owed KES 2.1 billion. The officials also facilitated the buying and repackaging of fertilizers by cartels. In total, the scandal cost Kenyans KES 1.9 billion. Richard Lesiyampe (Agriculture Principal Secretary), Newton Terer (Managing Director), Cornel Kiprotich (former general manager for finance) and other officials were charged with irregular purchase of maize. The Managing Director resigned, while five senior managers were suspended and 59 members of staff were put under investigations, as well as 152 people who include NCPB officials and unscrupulous traders, some of whom are not registered as farmers • In 2018, the government lost KES 470 million involving the supply of faulty transformers and the irregular allocation of contracts to 525 companies by the Kenya Power and Lighting Company. Ken Tarus, Ben Chumo and nine other senior officials were relieved of their duties, and their cases are ongoing in court. • In March 2015, President Uhuru Kenyatta directed five Cabinet Secretaries and six Principal Secretaries to step aside to allow for investigations into corruption allegations leveled against them. The Cabinet Secretaries of the Lands, Agriculture, Transport, Energy and Labor ministries were reprimanded. • In mid-2016, the opposition filed a petition in Parliament against the commission of the electoral body, the Independent Electoral and Boundaries Commission (the “IEBC”), on the grounds of incompetence and lack of integrity with respect to the manner in which the 2013 general elections were conducted. In October 2016, the IEBC chairman and commissioners resigned due to pressure from the opposition, marking Kenya’s first-ever resignation of a fully appointed Board. <p>Below are some recent cases of bribery and corruption that have made the headlines in Kenya, as well as internationally, but have not yet been brought before the courts or have not yet been settled.</p> <ul style="list-style-type: none"> • <u>The Dam Scandal</u> In 2019, KES 21 billion allocated for the construction of two dams vanished, involving 22 people among whom included two cabinet secretaries and three principal secretaries. Investigations were undertaken and completed by the Directorate of Criminal Investigations, and warrants of arrests were subsequently issued. However, the warrants of arrest were put on hold due to a push and pull within the government. • <u>The Eurobond Scandal:</u> Kenya borrowed more than KES 250 billion through a Eurobond to fund various primarily infrastructure-related developmental projects. At the time the money was acquired, the International Monetary Fund confirmed that the money was deposited in a Central Bank of Kenya account. The government indicated that the money had been disbursed to various ministries for capital projects. However, the opposition in Kenya alleged that more than KES 100 billion from the Eurobond had been misappropriated. As a result, following this exchange there has been a series of counter-accusations

		<p>between the opposition and the government concerning the issue. The Treasury made conflicting statements as to how the billions had been spent and has said that there were no clear records of the projects that had been funded by the Eurobond.</p> <ul style="list-style-type: none"> • <u>The “Chicken-gate” Scandal:</u> In early 2016, a British government report was sent to the Attorney-General naming commissioners of the IEBC and tender committee members who allegedly received money from a British company, Smith and Ouzman Limited, to ensure it would win a ballot paper printing tender announced in Kenya. The sales and marketing director of Smith and Ouzman Limited was jailed for a three-year term by the British Court for bribing the IEBC and Kenya National Examinations Council (the “KNEC”) officials to win printing contracts. However, there has been no report of any IEBC or KNEC official being penalized for the receipt of the bribes. • <u>The 2016 Rio Olympics:</u> The leader of the Kenya athletics team is alleged to have “stolen” USD 256,000 from the Kenya Government, which funds had been allocated to the National Olympic Committee of Kenya for the travel and accommodations of Kenyan athletes and officials to Rio de Janeiro for the Rio Olympics. Government officials sitting at various sports authorities are currently being tried before Kenyan courts. • <u>The National Youth Service (“NYS”):</u> More than KES 791 million was allegedly looted from the NYS during the devolution of youth projects to Kenya’s 47 counties. The former Devolution Cabinet Secretary Anne Waiguru tendered her resignation following accusations filed against her and her team. Court cases against officials in the Ministry of Devolution are currently ongoing and are yet to be determined. The Chairman of the Commission, Philip Kinisu, resigned a day after the National Assembly’s Justice and Legal Affairs Committee recommended his removal from office, as he was linked to this matter. Waiguru was, however, cleared of all charges by the Ethics and Anti-Corruption Commission on the basis that there was insufficient evidence showing probable cause to warrant recommendations against her. • <u>The Construction of Kenya’s Standard Gauge Railway (“SGR”):</u> This scandal concerned the prices of the material needed for the construction of the SGR. It is alleged that the price of raw materials was inflated from KES 220,921,502,221.08, as was initially quoted by China Road and Bridge Corporation, to KES 1.3 trillion. The Attorney General has raised questions regarding the integrity and transparency of the tendering process for these raw materials and why the actual amounts spent on the SGR remain unknown to the public.
<p>Participation in International Anti-Corruption Conventions</p>	<p>OECD Convention</p>	<p>No</p>
	<p>UNCAC</p>	<p>Signed December 9, 2003 Ratified December 9, 2003</p>
<p>Last Updated</p>	<p>June 14, 2019</p>	

Region		Africa
Country		Mozambique
2018 CPI	Rank	158/180
	Score	23
The Law on Bribery	Bribery of Domestic Officials	<p>The Parliament of Mozambique first adopted legislation on corruption—the Anti-Corruption Act (Law 6/2004, of June 17)—in 2004, supported by its relevant Regulations approved by the Government of Mozambique by Decree 22/2005, of June 22 (collectively, the “ACA”).</p> <p><u>Offering a bribe:</u> It is a crime to give or promise to public officials, directly or indirectly, money or any material or non-material privilege not due to them in return for actions in violation of their duties and tasks. Violators are subject to imprisonment for two to eight years and fines (ACA art. 9, cl. 1). However, the penalties may be reduced if the action was committed to protect the offeror—violation or his/her family from danger (ACA art. 9, cl. 2).</p> <p><u>Receiving a bribe:</u> It is a crime for public officials, directly or indirectly, to request or receive money or any other assets in return for performing an action in violation of their duties. Violators are subject to imprisonment from two to eight years and fines. However, if the action at issue is an omission or delay, or if it is not carried out, the penalties may be reduced (ACA art. 7, cl. 4-5). Moreover, if the offer or promise accepted is voluntarily repudiated by the public official and the amount received, if any, is returned before such action is performed, the penalties will not apply (ACA art. 7, cl. 6).</p> <p>Under Article 11 of the ACA, violators may also be subject to one or more of the following penalties: (1) loss of assets or possessions accrued by illicit actions; (2) full indemnification of damages caused; (3) expulsion from the profession; (4) prohibition from subcontracting to the state or public enterprises and from receiving tax or credit benefits or incentives.</p> <p>The Penal Code also includes penalties for public officials who accept a donation or gift to perform their official task in an unjust way, as well as any persons who offer gifts, presents or promises to public officials in order to obtain a favor. Individuals who engage in the foregoing conduct are subject to incarceration between two and eight years and a fine (of up to a maximum of approximately EUR 175/day) for up to one year (Penal Code art. 318, 321).</p> <p>The Public Probity Act (Law 16/2012) creates additional offenses for public officials who accept certain gifts or gratuities, abuse their authority or engage in illicit enrichment.</p> <p><u>Corporate liability:</u> Neither the ACA nor the Penal Code imposes criminal liability on legal entities.</p> <p>A new Penal Code was approved in Mozambique, replacing its predecessor that was more than 100 years old and bringing about a better system for the criminalization of corrupt acts in Mozambique. The new Penal Code dedicates a whole chapter, from Article 501 to 519, stating different kinds of corruption crimes.</p> <p>The crimes established in the new Penal Code for corruption are punishable by penalties that can vary from fines to 16 years in prison.</p> <p>The new Penal Code also allows exemptions from criminal proceedings to those who willingly return the amounts received from acts of corruption. Those who present evidence that the acts of corruption were instigated by public officials as a condition for the performance of the officials’ duties are also exempt from criminal proceedings.</p> <p>Following the approval of the new Penal Code, Mozambique is currently working on a new Code of Criminal Procedure to replace the current 100-year-old code. The Parliament approved by consensus the formal authorization for its Commission for Constitutional and Legal Matters (also known as “The First Commission”) to start working on the project of the new Code of Criminal Procedure. This project was expected to be made public before the end of 2015 but has not yet been made public and is under public consultation.</p>

	Bribery of Foreign Officials	The ACA and Penal Code do not distinguish between foreign and domestic officials.
	Commercial Bribery	Article 2, clause 1 of the ACA penalizes corruption in the private sector only when private companies are outsourced to provide <i>public</i> services. However, the Penal Code penalizes corruption both in the public and private sectors, although the penalties are more severe for corruption in the public sector.
Definitions	Government Employee	<p>Article 2, clause 2 of the ACA defines “public official” as “any person that exercises or participates in public or similar services” where such person “has been appointed or nominated pursuant to a law, by election or by resolution of the competent entity.” Article 2, clause 3 extends liability to any persons “who promote or contribute towards” a corruption offense even if they are not “public officers or officials.”</p> <p>The Public Probity Act (Law 16/2012, of August 14) adopted in 2012 establishes the basis for and the legal regime concerning public morality and respect for public property by public servants. Its provisions apply to any public servant and to public entities, as well as natural or legal persons entrusted with public powers. Under the Public Probity Act, a “public servant” is broadly defined to include any person officiating by mandate, or occupying a position, job or function in a public entity by virtue of election, appointment, employment or any other form of investiture or link, even if in a transitional function with or without remuneration.</p> <p>Under the new Penal Code, corruption by public officials/government employees is still more severely punished than corruption by other parties.</p>
	Gratification (Gifts/ Entertainments/ etc.)	<p>Neither the ACA nor the Penal Code provides a clear definition of “bribe,” and references to the forms of bribery are limited to “money or other assets” and “material or non-material privileges” (ACA art. 7, cl. 1; art. 9, cl. 1). A non-material privilege includes:</p> <ul style="list-style-type: none"> • Favorable treatment of a specific person, company or organization; • Benefits, compensation, bribes, loans, adjudication or signing of contracts in violation of the law; • Giving information on public tenders against fair competition law; and • Fraudulently supplying information on examination tests (ACA art. 9, cl. 3). <p>Under the Public Probity Act, a public servant may not request or accept gifts, donations, favors, tips or benefits of any kind from natural or corporate persons of any nationality in exchange for some form of official action or inaction. Gifts or gratuities may be offered consistent with local protocol on festive dates provided they do not exceed a specified value. However, gifts, regardless of value, may not be accepted from those who have an interest in a decision that the public servant has taken or will take regarding a particular subject within a specified time period.</p>
Current Status	Enforcement Body	In 2005, the Central Office for Combating Corruption (<i>Gabinete Central de Combate à Corrupção</i> , the “GCCC”) was established within the Attorney General’s Office, replacing the now defunct Anti-Corruption Unit that was established in 2003. The GCCC carries out investigations of corruption-related complaints and operates in Maputo, Beira and Nampula. Although the number of investigations is small compared to that of complaints, the number of cases being handled increased from 534 in 2009 to 677 in 2011. In 2011, out of the 677 cases that were investigated, 214 resulted in charges and 81 resulted in trial.
	Issues in Enforcement	One of the major problems in the GCCC is political interference, since the GCCC staff is appointed by the Attorney General, who is appointed by the government. Moreover, the GCCC lacks the expertise, resources and political will to fight corruption, especially since it only has the jurisdiction to investigate but not to prosecute corruption-related complaints.
	Recent Movement	In 2018, the Mozambican Constitution was revised (Law no. 1/2018, of June). The Constitutional reform aimed to readjust the Constitution to the process of consolidation of the democratic reform of the State, the strengthening of participative democracy and guarantee peace. The constitutional reform had an impact on the distribution of

		<p>competences of government bodies in the form of decentralization of powers. New political positions were created, such as the “Provincial Secretary of State” and the “Provincial Executive Council.” Another major change is that the Governors of the Provinces are now elected and not appointed by the President of the Republic. As a direct consequence of the 2018 Constitutional Reform, the Parliament approved Law no. 4/2019 of May 31, 2019, which establishes the principles, rules of organization, powers and functioning of the executive bodies of decentralized government in the provinces.</p> <p>The Mozambican Parliament also approved Law no. 3/2018, of June 19, 2018, which establishes the legal framework of the State-Owned Company Sector. This law provides the principles and basic rules applicable to the state corporate sector and has important provisions regarding integrity, ethics and good faith as guiding principles of state corporate activities. For example, under this law, State-owned companies are subject to financial control by a central supervisory body (article 24). On the other hand, the law also states that companies comprising the corporate sector of the State are mandatorily subject to external auditing, to be conducted by independent entities without prejudice to the powers of their internal auditing mechanisms. Following the approval of this law, the Government has approved the relevant regulations to ensure its implementation (Decree no. 10/2019, of February 29, 2019).</p> <p>The Ministry of Science, Technology, High-Education and Technical-Professional Teaching has approved a diploma (Ministerial Diploma no. 36/2019) with the aim of fighting corruption and sexual harassment in all technical and professional teaching institutions. This diploma states that each technical and professional teaching institution must have a “Commission Against Sexual Abuse, Harassment and Corruption” that shall address all matters related to such malpractices and to which the complaints and reports must be submitted.</p> <p>Another relevant milestone for the year 2018 was the approval of the new Code of Real Estate Registry (Decree-Law no. 2/2018 of August 23, 2018), which introduced the Integrated System of Real Estate Registry. This system will contribute to the reduction of cases of forged registries that are often performed with involvement of public officers under the manual and obsolete methods currently in use.</p> <p>In 2018, the Government approved the Regulations for Management of State Property (Decree 42/2018, of July 24, 2018), which reaffirms the need for thorough control and management of State property, especially with regards to transparency in state property management.</p>
<p>Participation in International Anti-Corruption Conventions</p>	<p>IACA Agreement</p>	<p>Signed February 2013</p>
	<p>OECD Convention</p>	<p>No</p>
	<p>UNCAC</p>	<p>Signed May 25, 2004 Ratified April 9, 2008</p>
	<p>AUCPCC</p>	<p>Signed December 15, 2003 Ratified August 2, 2006</p>
	<p>SADCPAC</p>	<p>Signed August 14, 2001 Ratified July 9, 2004</p>
<p>Last Updated</p>		<p>June 21, 2019</p>

Region		Africa
Country		South Africa
2018 CPI	Rank	73/180
	Score	43
The Law on Bribery	Bribery of Domestic Officials	<p>The Prevention and Combating of Corruption Act of 2004 (“PRECCA”) is the primary source of anti-corruption law in South Africa and creates the general offense of corruption.</p> <p><u>Offering a bribe:</u> It is a criminal offense to give or offer to give any other person any gratification in order to personally act or influence another to act in a dishonest/illegal way, resulting in an abuse of authority, breach of trust or an unjustified result (PRECCA section 3(b)).</p> <p><u>Receiving a bribe:</u> It is a criminal offense to accept or agree to accept any gratification from any person in order to act or influence another to act in a dishonest/illegal way, resulting in an abuse of authority, breach of trust or an unjustified result (PRECCA section. 3(a)).</p> <p>In addition to the general offense of corruption (PRECCA section. 3), PRECCA further contains numerous other corruption offenses that pertain to particular persons (public officers, judicial officers, etc.) and activities (auctions, contracts, etc.) The formulation of each specific corruption offense is substantially similar to the general offense of corruption.</p> <p>The punishment is subject to the discretion of the court responsible for sentencing and dependent upon in which court the matter is heard. The possible penalties are listed in section 26 of PRECCA. These are:</p> <ul style="list-style-type: none"> • High Court—up to life imprisonment and fines • Regional Court—up to 18 years’ imprisonment and fines • Magistrate Court—up to five years’ imprisonment and fines <p><u>Corporate liability:</u> A company is a separate legal entity apart from its members, directors and employees and can be prosecuted independently for offenses committed by the company. Corporate liability in South Africa is governed generally by the Companies Act, 71 of 2008, and the Criminal Procedure Act, 51 of 1997. South African law provides that the law treat the acts or states of mind of those who represent or control the company as the acts and states of mind of the company itself.</p> <p>Corporate entities convicted of a corruption offense under the PRECCA may be subject to fines to an unlimited extent. PRECCA must also be read with Regulation 43 of the Companies Act 71 of 2008, which requires certain companies to appoint a Social and Ethics Committee. The Social and Ethics Committee has certain obligations in respect of corruption, including actively monitoring and taking steps to reduce corruption and ensuring compliance with OECD recommendations regarding corruption.</p> <p><u>Reporting obligations:</u> Section 34 of PRECCA states that any person who holds a position of authority (including within a private corporation) has a duty to report acts of corruption about which the person knew or reasonably should have known or suspected. A failure to report may lead to a fine or imprisonment of up to 10 years (PRECCA section. 34, read with section 26), if sentenced by a High Court or regional court; or to a fine or imprisonment of not exceeding three years, if sentenced by a Magistrates Court.</p> <p><u>Proposed amendments:</u> The Department of Justice and Correctional Services has published the prevention and Combating of Corrupt Activities Amendment Bill, 2017. Although there are number of proposed amendments, the key aspects of the Bill are the following:</p> <ul style="list-style-type: none"> • Defining the limits to fines that the various courts are competent to hand down, as well as including guidelines for how corporate fines should be calculated; • Expressly prohibiting facilitation payments through amending the definition of “gratification” (although these payments were already illegal based on an interpretation of PRECCA);

		<ul style="list-style-type: none"> • Expanding the extraterritorial application of PRECCA; and • Creating the offense of “unacceptable conduct relating to a witness,” which relates to witness interference and intimidation and which extends protection to “whistleblowers”. <p>The significant proposed amendments are additions that, on the one hand, provide a degree of comfort for individuals required to file reports and, on the other hand, impose onerous requirements on organizations that fall within a certain category listed in PRECCA.</p> <p>Broadly, these additions are:</p> <ul style="list-style-type: none"> • A person who <i>bona fide</i> files a report as contemplated in terms of subsection 34(1) may not be held liable to any civil, criminal or disciplinary proceedings in respect of the content of such report; • The imposition of the obligations of section 34 on State-Owned Enterprises; and • All institutions listed in section 34(4) of PRECCA (the subsection detailing those persons defined as persons who “hold a position of authority”) are required to implement appropriate internal compliance programs to ensure that reportable offenses are detected and reported.
	<p>Bribery of Foreign Officials</p>	<p>Bribery of foreign officials is covered by PRECCA, which mirrors the provisions on domestic public bribery for offerors of bribes. PRECCA also criminalizes the giving or offering of any gratification to a foreign official to have him/her personally act, or influence others to act, in an illegal, dishonest or unauthorized manner such that it constitutes an abuse of authority, breach of trust or violation of legal duties, or is otherwise designed to reach an unjustified result (PRECCA section. 5). The degree of the penalty depends on in which court the matter is heard and is subject to the discretion of the court.</p>
	<p>Commercial Bribery</p>	<p>Commercial bribery is criminalized by PRECCA, which also contains provisions on the bribery of agents. Those provisions prohibit both the accepting or giving of and the offering to give or accept any gratification by an agent, and the accepting or giving of, or offering to accept or to give any gratification by a third person to/from an agent (PRECCA section. 6). As with bribery of domestic officials, the degree of penalty depends on in which court the matter is heard and is subject to the discretion of the court.</p>
<p>Definitions</p>	<p>Government Employee</p>	<p>A “public officer” is anyone who is a member, an officer or an employee of a public body, and includes anyone receiving remuneration from the state, any public servant under the Public Service Act of 1994 and any public corporation officer. However, members of the legislature, prosecuting authorities and judicial officers are not public officers (and are covered in separate articles under PRECCA).</p> <p>A “foreign public official” under PRECCA includes anyone holding a legislative, judicial or administrative office in a foreign state, any person performing public functions and any official of a public international organization.</p>
	<p>Gratification (Gifts/ Entertainments/ etc.)</p>	<p>PRECCA prohibits any person from accepting or giving “any gratification” in order to act or induce another person to act corruptly. “Gratification” is defined extremely broadly and may consist of something other than money, such as gifts, entertainment, loans, rights, employment and other types of benefits. There is no minimum threshold stipulating what constitutes gratification.</p> <p>Unlike the FCPA, PRECCA does not provide for the allowance of facilitation payments.</p> <p>The current proposed amendments seek to introduce facilitation payments as an offense by including such offense in the definition of “gratification.”</p>
<p>Current Status</p>	<p>Enforcement Body</p>	<p>South Africa has a number of anti-corruption agencies with overlapping jurisdictions.</p> <p>Special Investigating Unit and National Prosecuting Authority</p> <p>The Special Investigating Unit (the “SIU”) is dedicated to investigating serious malpractices or maladministration relating to state institutions, and any conduct which can materially harm the interests of the public. It reports directly to the President. Since the SIU lacks the authority</p>

to prosecute and make arrests, it coordinates with the National Prosecuting Authority (the “NPA”). The NPA is South Africa’s primary prosecuting authority and consists of several units.

South African Police Service

While the South African Police Service (the “SAPS”) has very little credibility as multiple police chiefs have themselves been convicted of bribery, there are specialized units within the SAPS that were formed to focus on the investigation of more sophisticated offenses. One such agency within the SAPS is the Directorate for Priority Crime Investigation (the “Hawks”) The Hawks investigate national priority crimes such as serious organized crime, serious commercial crime and serious corruption. The Hawks also have specialized Units, such as Serious Commercial Crimes Unit to investigate specific crimes.

Independent Police Investigative Directorate

The Independent Police Investigative Directorate (the “IPID”) is an organization that was created by Parliament to ensure effective independent oversight of the South African Police Service and Municipal Police Services. This is provided for by section 206(6) of the South African Constitution. The IPID has broad powers and is tasked with investigating allegations of misconduct of, or offenses committed by, all members of the police service. The IPID Act grants the executive director extraordinary powers to investigate wrongdoing in the police service. Notably, the IPID Act does not explicitly prevent the IPID from investigating alleged wrongdoing by the Hawks or any of its members. Further, the IPID Act allows the IPID to investigate “corruption matters within the police.”

Public Protector

The Public Protector was established by section 181 to 183 of the Constitution, 108 of 1996 and the Public Protector Act 23 of 1994. It is the purview of the Public Protector, as regulated by national legislation, to investigate any conduct in state affairs, or in the public administration in any sphere of government, that is alleged or suspected to be improper or to have resulted in any impropriety or prejudice, to report on that conduct and to take appropriate remedial action. The Public Protector is granted additional powers and functions under the Public Protector Act 23 of 1994.

The Public Protector has in recent years been involved in several high-profile investigations into various government departments and has been subjected to political interference for carrying out investigations against state departments and senior political officials. On March 31, 2016, the Constitutional Court held that the power of the Public Protector to take appropriate remedial action has legal effect and is binding. Therefore, neither the President nor the National Assembly are entitled to respond to binding remedial action recommended by the Public Protector as if it has no force or effect, unless it has been set aside through a proper judicial process.

In that case, the Court also held that the National Assembly’s resolution, based on the Minister’s findings exonerating the President from liability, was inconsistent with the Constitution and unlawful. The Court held that, by failing to comply with the Public Protector’s order, the President failed to “uphold, defend and respect” the Constitution because a duty to repay the money was specifically imposed on him through the Public Protector’s constitutional power. The Court ordered the President to make a payment 45 days thereafter. The President was also ordered to reprimand the Ministers involved in the expenditure at his homestead. The National Treasury was then tasked to determine the cost of the non-security upgrade, of which it estimated that the President is liable to pay R7.8 million.

Competition Commission and Competition Tribunal

The Competition Commission and the Competition Tribunal are two other highly active enforcement authorities that (i) conduct investigations into unlawful corporate conduct, including cartel conduct and restrictive business practices; and (ii) determine the punishment for these offenses. The Competition Commission has various powers, including the power to raid premises, search for, and remove information pursuant to a warrant or, in limited circumstances, without a warrant. In a highly publicized investigation, the Competition Commission recently charged 14 banks operating in South Africa (including local and international banks) with collusion relating to direct and indirect price-fixing in respect of spot trades between the United States dollar and the South African rand.

		<p>Asset Forfeiture Unit</p> <p>The Asset Forfeiture Unit (“AFU”) was established in order to ensure that the powers to seize criminal assets would be used to their maximum effect in the fight against crime and, particularly, organized crime. For instance, the AFU recently obtained a preservation order for R144 million for municipal land that was sold to private individuals, and in the Northern Cape, the AFU obtained a confiscation order for R59.8 million that was fraudulently claimed by a private company for a lease agreement with the provincial government.</p>
	<p>Issues in Enforcement</p>	<ul style="list-style-type: none"> • Lack of political will to address high-profile corruption and failure to prosecute high-profile cases. • Anti-corruption agencies are not sufficiently independent from political interference. • The police and other investigative agencies lack sufficient capacity and competency to effectively investigate and prosecute complex cases of corruption and white collar crime. • Inadequate whistleblower protection. The Protected Disclosures Act was enacted to protect whistleblowers but is limited to the protection of employees’ occupational detriment and does not provide broad protection for whistleblowers. However, the recent amendments to the Protected Disclosures Act aim to increase the protection provided to employees and workers who make protected disclosures. • Despite being a comprehensive piece of legislation, there have been very few prosecutions under PRECCA. • PRECCA does not make provision for leniency agreements (deferred prosecution agreements) or compliance programs which may improve the ability of law enforcement agencies to identify and prove corporate crimes by relying on information provided during the deferred prosecution agreements process. • South Africa is the only country in Africa that has adopted the OECD convention; however, South Africa has been criticized for failing to implement the provisions of the convention. In March 2014, Transparency International released a report titled “Phase 3 Report on Implementing the OECD Anti-Bribery Convention in South Africa,” which sets out South Africa’s failure to implement the convention and to address bribery of foreign officials in South Africa. In March 2016, South Africa presented its follow-up report to the OECD, indicating that it has taken the initial steps to implement the recommendations in that report.
	<p>Recent Movement</p>	<ul style="list-style-type: none"> • To date, the only significant U.S. Securities and Exchange Commission (“SEC”) or Department of Justice enforcement action in relation to South Africa remains the incident where the SEC announced on September 28, 2015, that a major Tokyo-based multinational company (“JapanCo”) agreed to pay USD 19 million to settle charges that it violated the accounting provisions of the FCPA. The SEC alleged that JapanCo’s South African subsidiary inaccurately recorded payments made to an allegedly politically connected company, Chancellor House, in connection with two government energy sector contracts amounting to USD 5.6 billion. • In March 2018, President Cyril Ramaphosa suspended SARS chief Tom Moyane because he brought SARS into disrepute. He also charged Moyane with misconduct such as mishandling of a Financial Intelligence Centre report into suspicious transactions into Makwakwa’s bank accounts, the making of unauthorized bonus payments, misleading Parliament and ordering an employee to feign illness to not give evidence during an investigation. The Hawks also have investigated Moyane and had until the end of June 2019 to finalize their investigation. • Former President Jacob Zuma was charged with 16 counts of fraud, corruption, racketeering and money laundering related to the controversial multibillion rand arms deal concluded in the late 1990s. In May 2019, Zuma made an application to the High Court for a permanent stay of prosecution in relation to the 16 charges. Zuma’s legal team argues that the long delay makes it impossible for him to have a fair trial, while the prosecution argues that it is Zuma who is responsible for the delays and he should not avoid prosecution on this basis. The matter is still being decided by the courts. <p><u>The “State Capture” Scandal:</u></p>

		<ul style="list-style-type: none"> • The release of the Public Protector’s report “State of Capture” dated October 14, 2016, drew attention to the numerous allegations of corruption within multiple state-owned entities and purported links between those entities and an Indian family, the Guptas, who are accused of using their close relationship with South Africa’s former President Jacob Zuma to secure lucrative public contracts. • The State Capture scandal has reached further than just the companies owned by the Gupta family; multiple multinational companies have been implicated in wrongdoing, either as business partners or as service providers to the Guptas or state-owned entities alleged to have been “captured” by the Guptas. • In the light of the recommendations in the Public Protector’s report, a Commission of Inquiry into State Capture was appointed and commenced its work on August 21, 2018 (“SCC”). The SCC is currently busy with hearing testimony from the numerous individuals and entities implicated in “State Capture” as well as undertaking investigations into various entities. The SCC expects to complete hearing testimony in August 2019. • The President has also appointed a new investigating unit within the NPA to investigate the criminal aspect of “State Capture” as well as linked fraud and corruption. The unit will be led by advocate Hermione Cronje, who has extensive experience in prosecution.
<p>Participation in International Anti-Corruption Conventions</p>	<p>OECD Convention</p>	<p>Yes</p>
	<p>UNCAC</p>	<p>Signed December 9, 2003 Ratified November 22, 2004</p>
	<p>AUCPCC</p>	<p>Signed March 16, 2004 Ratified November 11, 2005</p>
	<p>SADCPAC</p>	<p>Signed August 14, 2001 Ratified May 15, 2003</p>
<p>Last Updated</p>	<p>June 12, 2019</p>	

Region		Asia Pacific
Country		Australia
2018 CPI	Rank	13/180
	Score	77
The Law on Bribery	Bribery of Domestic Officials	<p>The applicable law on bribery of domestic public officials depends on whether the official in question is an official of a federal entity or a state/territory entity.</p> <p>Bribery of public officials of federal entities constitutes an offense under Divisions 141-142 of Schedule 1 to the <i>Criminal Code Act 1995</i> (Cth) (the “Federal Criminal Code”).</p> <p>Bribery of public officials of state entities constitutes an offense under the common law offense of bribery (i.e., “the receiving or offering of an undue reward by or to any person in public office, in order to influence that person’s behavior in that office, and to incline that person to act contrary to accepted rules of honesty and integrity”).</p> <p>Certain state legislation also prohibits the bribery of agents and employees, regardless of whether they are in the public or private sector. For example, Part 4A of the <i>Crimes Act 1900</i> (NSW) makes it an offense for an agent to receive (or agree to receive or to solicit) or be offered a benefit as an inducement to do something, omit to do something, or favor or disfavor someone in relation to the affairs or business of the agent’s principal. Similar provisions exist in other states and territories.</p> <p>In addition, amendments to the Federal Criminal Code (<i>Crimes Legislation Amendment (Proceeds of Crime and Other Measures)</i> Act 2016 (Cth) enacted on March 1, 2016, introduced new criminal books and records offenses (the <i>Books and Records Offence</i>), which are broad in their scope and may cover books and records that fail to disclose corrupt payments to domestic officials.</p>
	Bribery of Foreign Officials	<p>Bribery of foreign public officials is primarily regulated by the federal Criminal Code. Division 70.2 of the federal Criminal Code makes it an offense for a person to provide (or offer to provide, promise to provide or cause any of those things to happen) a benefit to a foreign public official when that benefit is not legitimately due to the foreign public official, and the benefit is given with the intention of obtaining or retaining business or a business advantage. Division 70.4 of the federal Criminal Code provides that it is a defense if the accused can show that the benefit was minor, was a facilitation payment and was appropriately recorded. Conspiring, aiding and abetting, inciting or attempting bribery of a foreign official are also criminal offenses under the federal Criminal Code.</p> <p>See also: (a) the <i>Proceeds of Crime Act 2002</i> (Cth), which provides for the forfeiture of foreign bribes paid, the seizure of the benefits of corrupt activity and identifies foreign bribery as a predicate offense for money laundering offenses; (b) the <i>Corporations Act 2001</i> (Cth), which provides for civil, criminal and administrative sanctions for acts ancillary to foreign bribery; (c) the <i>Mutual Assistance in Criminal Matters Act 1987</i> (Cth) and the <i>Extradition Act 1988</i> (Cth), which provide a framework for the investigation of foreign bribery in conjunction with foreign law enforcement agencies; (d) the <i>Income Tax Assessment Act 1997</i> (Cth), which precludes the tax deductibility of bribes and may form the basis for reassessment and audit of tax liabilities in the event bribes have been wrongfully deducted; and (e) the Books and Records Offence, which was enacted by the federal Parliament in order to assist prosecutors in prosecuting foreign corrupt practices, where prosecution of the underlying offense (bribing foreign government officials) may, for various reasons, be problematic.</p> <p>Moreover, although not specifically designed to prevent foreign bribery, foreign bribery-related prosecutions may also take place under the following legislation: (a) s180(1) of the <i>Corporations Act 2001</i> (Cth), which imposes statutory duties on directors of Australian corporations in the exercise of their powers; and (b) Division 144 of the federal Criminal Code and similar provisions under state/territory law (e.g., s83A of the <i>Crimes Act 1958</i> (Vic)), which make it an offense to make fraudulent documents.</p>

	<p>Commercial Bribery</p>	<p>Bribery in a commercial context is regulated primarily by state and territory law. The <i>Secret Commissions Act 1905</i> (Cth) having been repealed, there is no federal legislation which specifically regulates bribery in a corporate context; instead, the fraud-type provisions of the Criminal Code are broad enough to capture most cases of commercial bribery.</p> <p>As discussed above, state legislation prohibiting the receiving or giving of undue benefits to agents and employees is also likely to be effective in criminalizing most cases of commercial bribery. Provisions of the <i>Corporations Law 2001</i> (Cth) may also be relevant if a person giving or receiving a bribe is a director of an Australian corporation. The new Books and Records Offence is also broad enough to cover books and records that fail to accurately record acts of commercial bribery.</p> <p>In addition, employers will typically have remedies against their employees who take secret commissions or other corrupt benefits under general principles of equity, and may have contractual rights under employment contracts.</p> <p>Finally, it may be possible to bring actions against the party engaging in corrupt conduct under Part 2 of the Australian Consumer Law, which is Schedule 2 to the <i>Competition and Consumer Act 2010</i> (Cth), on the basis that the bribery is “misleading or deceptive conduct.”</p>
<p>Definitions</p>	<p>Government Employee</p>	<p>The provisions relating to foreign bribery are designed to be read extremely broadly. The relevant recipient for an offense under Division 70 is a “foreign public official.”</p> <p>“Foreign public official” is defined inclusively by 70.1 of the Criminal Code as any person who is an employee, officeholder, appointee of or person owing duties to foreign government bodies, offices, legislatures, militaries, judiciaries and their agents, contractors and intermediaries. Further, the legislation also applies to the employees of state-owned enterprises and public international organizations.</p>
	<p>Gratification (Gifts/ Entertainments/ etc.)</p>	<p>There is no blanket prohibition on hospitality, gifts or other benefits being provided to foreign government officials, either by type or by value. However, the definition of “benefit” is to be read expansively and includes “any advantage and is not limited to property.” A key question in each instance is whether any benefit provided was “not legitimately due.” Companies must ensure that entertainment, gifts and study tours provided to foreign public officials are not actually or apparently excessive.</p>
<p>Current Status</p>	<p>Enforcement Body</p>	<p>There is no single enforcement body in Australia. The lead investigative agency for bribery of foreign public officials and bribery of federal public officials is the Australian Federal Police (the “AFP”). In 2012 and 2013, the AFP was reported to have received substantial additional resources to investigate allegations of foreign bribery, and a number of new cases (arising from both self-reports and complaints) were reported to have been opened. However, it is unclear whether the AFP’s skill base and resources are yet adequate to effectively investigate foreign bribery, especially when issues such as organized crime, trade union corruption and transnational terrorism have been prioritized by the Commonwealth. In an attempt to address the lack of resources, in 2014 the federal government established a Fraud and Anti-Corruption Centre which is overseen by the AFP. The Centre will work in conjunction with, among others, the Australian Taxation Office, the Australian Securities and Investment Commission, the Australian Customs and Border Protection Service and the Department of Foreign Affairs and Trade to tackle federal fraud and anti-corruption offenses, including foreign bribery. The AFP has also established a network of approximately 13 prosecutors nationally to manage foreign bribery matters.</p> <p>To the extent that Australian corporations are alleged to have engaged in bribery of foreign officials, the Australian Securities and Investments Commission (“ASIC,” the corporate regulator) may also have jurisdiction to investigate and sanction companies and officers. To date, there has been no significant action by ASIC in the area of foreign bribery.</p> <p>The lead prosecutorial agency for bribery of foreign public officials and bribery of federal public officials is the Commonwealth Office of the Director of Public Prosecutions.</p> <p>The lead investigative agencies for bribery of state/territory public officials and bribery in a private context are the police forces of the relevant states and territories in which the conduct is alleged to have occurred. In addition to state and territory police forces, a number of states have specific agencies with strong coercive powers to investigate bribery and</p>

		<p>corruption offenses, e.g., the Independent Commission Against Corruption in New South Wales.</p> <p>Prosecutions of federal offenses typically take place in state or territory courts (which are vested with jurisdiction to hear federal criminal matters). Prosecutions of state/territory offenses also take place in state or territory courts. Australian courts are considered generally professional and free from corruption, if sometimes slow.</p>
	<p>Issues in Enforcement</p>	<ul style="list-style-type: none"> • The primary issue in enforcement of the law related to the bribery of foreign officials to date continues to be the low rate of successful prosecutions under Australian anti-bribery law. Under these circumstances, corporations do not yet feel that investigation, prosecution and conviction for foreign bribery under Australian law is a significant risk. Nevertheless, media attention as a result of charges brought against an Australian engineering company in mid-2018 could have a significant impact on the extent to which corporations in Australia need to consider the adequacy of their policies and procedures to combat corrupt practices. That case involved an alleged conspiracy to provide illegitimate payments to foreign public officials in the Philippines and Vietnam. In addition, the current proposal to introduce a strict liability offense for corporations who do not take adequate procedures to prevent foreign bribery (based on an equivalent offense in the United Kingdom’s <i>Bribery Act</i>) could have an impact. • AFP officers have not traditionally been provided with the skills and resources to pursue long-running, complex and multijurisdictional investigations. The resources of the AFP are in great demand in relation to higher-profile crimes, e.g., terrorism and organized crime. The AFP is, however, a member of the specialized International Foreign Bribery Taskforce (“IFBT”), which involves law enforcement representatives from the FBI, the United Kingdom’s National Crime Agency and the Royal Canadian Mounted Police. • Recent enforcement activity suggests that federal prosecutors will attempt to alleviate some of the evidentiary difficulties associated with the existing foreign bribery offense (such as proving a benefit was not legitimately due in another jurisdiction) by charging companies with conspiracy offenses which do not require the prosecution to prove the elements of the substantive offense (only that an agreement was entered to contravene the substantive offense and that one or more overt acts were committed in pursuance of that agreement).
	<p>Recent Movement</p>	<p>In 2016, the Commonwealth Senate undertook an inquiry into Australia’s laws that prohibit the bribery of foreign public officials, and legislative changes can be expected in order to address the findings made by the senate to tighten and strengthen the legislation.</p> <p>In December 2017, the OECD released its Phase 4 report on Australia’s compliance with the convention on combatting bribery of foreign public officials in international business transactions. The OECD concluded that Australia’s enforcement against foreign bribery has increased markedly since Phase 3, and Australia is now able to report its first successful prosecution. At the time of the report, the AFP had 19 active investigations and had achieved its first prosecution. In July 2017, three individuals pleaded guilty in the Supreme Court of New South Wales to the bribery of foreign public officials in Iraq. The individuals admitted to the payment of bribes in order to secure a construction contract in Iraq worth approximately USD 8.5 million. In September 2017, all three individuals were sentenced to four years’ imprisonment with a non-parole period of two years. Two of the accused were also fined AUD \$250,000.</p> <p>In May 2018, the second prosecution in Australia of a corporation for foreign bribery offenses was commenced against an Australian engineering company alleging that, between 2000 and 2012, the company was a party to a conspiracy to provide illegitimate payments to foreign public officials in the Philippines and Vietnam. Five individuals have also been charged as parties to the conspiracy. The proceedings against both the company and the individuals are in the committal stage (prior to any plea being entered).</p> <p>In December 2017, following public consultations on proposed reforms, the federal government introduced a bill to Parliament containing a number of amendments to the federal Criminal Code designed to remove unnecessary impediments to the prosecution of foreign bribery offenses (the “Bill”). Among the proposed changes, the Bill would introduce</p>

		<p>a new corporate offense for a “failure to prevent foreign bribery.” The new offense would impose strict liability on a corporation whose “associates” engaged in foreign bribery unless the corporation can demonstrate that it took adequate measures to prevent the commission of the offense. An “associate” is defined broadly to include an employee, contractor, agent or subsidiary of the corporation.</p> <p>Other proposed amendments include extending the definition of “foreign public official” to include candidates for office, removing the requirement that a business advantage be “not legitimately due,” replacing it with the concept of “improperly influencing a foreign public official” and extending the offense to cover bribery to obtain a personal advantage.</p> <p>Notably, the Bill also contains a deferred prosecution agreement (“DPA”) regime that would apply to foreign bribery and various other specified corporate offenses (excluding taxation offenses). The DPA regime would apply only to offenses committed by corporations and would generally include requirements such as the company paying a fine and/or reparation to affected parties and undertaking remedial steps such as revised policies and training requirements. The DPA would be required to be approved by a retired judicial officer.</p> <p>The proposed amendments were delayed by, among other things, the federal election in May 2019 but are now back before the Senate for consideration.</p>
<p>Participation in International Anti-Corruption Conventions</p>	<p>OECD Convention</p>	<p>Yes</p>
	<p>UNCAC</p>	<p>Signed December 9, 2003 Ratified December 7, 2005</p>
<p>Last Updated</p>		<p>June 25, 2019</p>

Region		Asia Pacific
Country		China
2018 CPI	Rank	87/180
	Score	39
The Law on Bribery	Bribery of Domestic Officials	<p>The Criminal Law of the PRC (“Criminal Law”) imposes criminal penalties for the following conduct:</p> <p><u>Individuals offering a bribe to state functionaries (individuals):</u> A criminal penalty shall be imposed on persons who give state functionaries property in order to seek illegitimate gain or give state functionaries property, kickbacks, or service charges of a relatively large amount in violation of state provisions (Criminal Law art. 389).</p> <p><u>Entities offering a bribe to state functionaries (individuals):</u> A criminal penalty shall be imposed on entities (and their responsible personnel) that offer bribes or kickbacks/service charges to state functionaries in violation of state provisions, when the circumstances are serious (Criminal Law art. 393).</p> <p><u>Individuals/entities offering bribes to close relatives/affiliates of state functionaries:</u> A criminal penalty shall be imposed on individuals/entities who offer bribes to close relatives/affiliates of state functionaries (or former state functionaries) (Criminal Law art. 390A).</p> <p><u>Individuals/entities offering bribes to state entities:</u> A criminal penalty shall be imposed on individuals/entities who give property to state organs, state-owned entities, and people’s organizations to seek illegitimate gain (Criminal Law art. 391).</p> <p><u>Individuals facilitating bribes:</u> A criminal penalty shall be imposed on persons who help others bribe state functionaries, when the circumstances are serious (Criminal Law art. 392).</p> <p><u>Individuals receiving a bribe:</u> A criminal penalty shall be imposed on state functionaries who: (i) take advantage of their or other state functionaries’ authority to solicit property, or illegally accept property from others in exchange for benefits to the person providing the property; or (ii) accept kickback/service charges for personal use in violation of state provisions (Criminal Law art. 385 & 388).</p> <p><u>Entities receiving a bribe:</u> A criminal penalty shall be imposed on state organs, state-owned entities, and people’s organizations (and their responsible personnel) that: (i) solicit or illegally accept property from others in exchange for benefits to the person providing the property; or (ii) secretly accept kickback/service charges, if the circumstances are serious (Criminal Law art. 387).</p> <p><u>Close relatives/affiliates receiving a bribe by using influence:</u> A criminal penalty shall be imposed on close relatives/affiliates of state functionaries (or former state functionaries) who solicit or accept property of a relatively large amount and seek illegitimate gain for persons providing the property through the official acts or influence of the state functionaries (or former state functionaries) (Criminal Law art. 388A).</p> <p><u>Leniency/exemption from punishment and self-reporting:</u> When the underlying crimes are relatively minor and the offenders have assisted by exposing the corrupt activities of others, liability may be mitigated or exempted. Otherwise, offenders who self-report will be entitled to lenient treatment but cannot be completely exempted from liability (Criminal Law art. 390).</p>
	Bribery of Foreign Officials	A criminal penalty shall be imposed on individuals/entities giving property to foreign public officials and officials of public international organizations in order to obtain illegitimate commercial gain (Criminal Law art. 164 para. 2, 3 & 4).
	Commercial Bribery	<u>New laws and regulations:</u> In November 2017, China published an amendment to the Anti-Unfair Competition Law (“New AUCL”) which became effective in January 2018. Notably, the New AUCL introduces new definitions, enhances enforcement measures, and tightens sanctions to regulate commercial bribery. The New AUCL accomplishes the following:

		<ul style="list-style-type: none"> • Provides a more detailed definition of “commercial bribery,” which applies to “a business operator that uses money or property or other means to give bribes in order to seek opportunities for transaction or [gain] competitive advantage.” • Clarifies that the scope of recipients includes: <ul style="list-style-type: none"> • Employees of the counterparty in a transaction; • Entities or individuals entrusted by the counterparty in a transaction to handle relevant affairs; and • Entities or individuals that use their authority or influence to influence a transaction. • Clarifies that an employer is liable for its employees’ misconduct if those acts are undertaken for the benefit of the employer. • Provides administrative enforcement authorities with wider and stronger investigatory powers (e.g., carrying out investigations by entering the premises of a business operator (who is the subject of the investigation)). • Imposes more severe penalties on non-cooperation and bribery. The New AUCL increases the amount of fines from the range of RMB 10,000 to RMB 200,000 to the range of RMB 100,000 to RMB 3 million and adds the possible penalty of suspension of a business license. <p>While commercial bribery can arise in the context of bribery of domestic or foreign officials, it also includes bribery of private individuals, including the following:</p> <p><u>Receiving bribes by non-state functionaries:</u> A criminal penalty shall be imposed on non-state functionaries who, by taking advantage of their positions, solicit or accept property of a relatively large amount from others in exchange for benefits to the person providing the property (Criminal Law art. 163).</p> <p><u>Individuals/entities offering bribes to non-state functionaries:</u> A criminal penalty shall be imposed on individuals/entities who offer property of a relatively large amount to non-state functionaries for illegitimate gain (Criminal Law art. 164 para. 1, 3 & 4).</p> <p>The Anti-Unfair Competition Law (“AUCL”) art. 7 imposes administrative fines on business operators (individuals/entities) who provide or receive bribes to obtain a transaction opportunity or competitive advantage in private commercial transactions. The AUCL can impose fines ranging from RMB 100,000 to RMB 3 million and suspend business licenses.</p> <p>The Government Procurement Law art. 77(4) imposes civil liabilities on vendors who offer bribes or other illegitimate interests to purchasers or procurement agencies in the context of government procurement.</p>
<p>Definitions</p>	<p>Government Employee</p>	<p>“State functionaries” means: (i) all personnel of state organs; (ii) personnel performing state functions in state-owned corporations, enterprises, institutions, and people’s organizations; (iii) personnel assigned by state organs, state-owned corporations, enterprises, and institutions to engage in state functions in non-state owned corporations, enterprises, institutions, and social organizations; and (iv) other personnel engaged in state functions according to the law (Criminal Law art. 93).</p>
	<p>Gratification (Gifts/ Entertainments/ etc.)</p>	<p>Relevant laws permit the offering of advertising gifts of modest value consistent with common commercial practice. Under criminal law, bribes shall be distinguished from permissible gifts by considering the following factors: (i) background of the property transaction (e.g., relationship of the parties); (ii) value of the property; (iii) cause, timing (bribes given after the fact are also impermissible; e.g., if an official receives a bribe after he/she has performed his/her duties and provided the offeror with an illegal benefit), and method of the property transaction, and whether the offeror has requested any favor from the recipient; and (iv) whether the recipient has used his/her position to reward the offeror.</p> <p>The interpretation jointly issued by the Supreme People’s Court (“SPC”) and the Supreme People’s Procuratorate (“SPP” or “Protectorate”) in 2016 further clarifies that a bribe can be money, goods, a proprietary interest consisting of benefits (the value of which can be calculated in monetary terms, e.g., the release of a debt), and tangible benefits, such as memberships that require payment (2016 Interpretation art. 12).</p>

		<p>Some industry groups have set out strict internal rules regarding gifts and entertainment policies to provide further guidance to their members (e.g., the 2019 version of the Foreign Investment R&D-Based Pharmaceutical Association Committee Code prohibits member companies from providing gifts (including cultural courtesy gifts and non-monetary promotional aids and reminder items for prescription-based medicines) to health care professionals).</p>
<p>Current Status</p>	<p>Enforcement Body</p>	<p>The SPP is in charge of the investigation and prosecution of all criminal law violations, except for the crime of accepting bribes from non-state functionaries and the crime of offering bribes to non-state functionaries, which are investigated by the police and prosecuted by the SPP. Crimes related to state functionaries will be investigated by the Supervisory Commission and prosecuted by the SPP.</p> <p>The Supervisory Commission is in charge of conducting investigations of duty-related violations. The objects within its jurisdiction are state functionaries. After investigation, it transfers the results of investigations on suspected duty-related crimes to the SPP for examination and initiates a prosecution in accordance with the law, and offers supervisory suggestions to the entities where supervisory objects work.</p> <p>In the National Supervision Commission Governing Rules of Jurisdiction, crimes like bribery of foreign officials, receiving bribes by non-state functionaries, and individuals/entities offering bribes to non-state functionaries are included. Therefore, the Supervisory Commission may extend its jurisdiction to non-state functionaries.</p> <p>The State Administration for Market Regulation (“AMR”) and its local branches are responsible for enforcing the anti-bribery provisions in the AUCL and the Government Procurement Law by taking administrative actions and imposing administrative fines.</p> <p>The Central Commission for Discipline Inspection (“CCDI”) and its local branches are responsible for internal Communist Party discipline and investigation.</p>
	<p>Issues in Enforcement</p>	<p><u>The Protectorate, the Police, and the Supervisory Commission:</u></p> <ul style="list-style-type: none"> • These departments are authorized to investigate and/or prosecute bribery crimes that meet certain threshold requirements only. For instance, for the crime of individuals/entities offering a bribe to a state functionary (individuals/entities), PRC authorities will prosecute bribes of more than RMB 10,000 only, unless an exception applies. • The Supervisory Commission is a newly established state entity. It has power to conduct supervision of public officials exercising public power (hereinafter referred to as “public officials”), investigate duty-related violations and crimes, build integrity, and carry out the anti-corruption work. • When the Supervisory Commission or its organs are investigating duty-related crimes, the supervisory organ may, as required for work, make inquiries about and freeze the property such as savings, remittances, bonds, stocks, and fund shares of the entity or individual involved in the case in accordance with relevant provisions. Relevant entities and individuals shall provide cooperation. <p><u>The AMR:</u></p> <ul style="list-style-type: none"> • The AMR’s investigative powers are limited compared to those of the police and the Supervisory Commission. As a result, in serious cases, the AMR may conduct its investigation in conjunction with the police and rely on the power of the latter. • The AUCL is broadly and vaguely drafted. The AMR interpretation of the AUCL may vary between local jurisdictions, and some local AIC offices adopt aggressive and far-reaching interpretations that characterize some common business practices, which would be legal in other jurisdictions, including the United States, as commercial bribery. This is especially true in the context of business dealings between commercial entities, such as with respect to the provision of free products, rebates, and sponsorships to a customer entity. In the event a serious commercial bribery violation may constitute a criminal offense, the AIC should transfer the case to the Procuratorate or the police to initiate a criminal proceeding.

		<ul style="list-style-type: none"> The government has established a nationwide database to record and track companies that have violated the AUCL’s anti-bribery provisions. The address of the online database is http://gsxt.saic.gov.cn/. <p><u>The CCDI:</u></p> <ul style="list-style-type: none"> The CCDI may investigate Communist Party members suspected of corruption, poor management, and misuse of public funds. Additionally, the CCDI may contact private entities as part of its investigation of Party members, especially those entities that may have bribed Party members. Whenever the CCDI believes the misconduct constitutes a crime, it should transfer the case to the Procuratorate or the police to initiate a criminal proceeding. <p><u>Consequences of Foreign Bribery Prosecutions</u></p> <p>There are limited instances in which PRC authorities appear to have followed up on foreign bribery convictions by imposing penalties against PRC officials who accepted bribes. There are also indications that AIC officials have approached multinational companies that have settled FCPA prosecutions involving misconduct in China and have used those settlements as evidence of wrongdoing.</p> <p>Moreover, Chinese public opinion strongly supports pursuing multinational companies in China after they have resolved FCPA charges with the U.S. Securities and Exchange Commission or the U.S. Department of Justice. Media reports often reveal a nationalist sentiment, arguing that a multinational company that has paid bribes resulting in harm to the Chinese people should not be allowed to walk away penalty-free after paying huge fines to the United States.</p>
	<p>Recent Movement</p>	<p><u>The Central Government’s Anti-Corruption Campaign</u></p> <p>After taking power at the end of 2012, President Jinping Xi has advocated a highly publicized, zero-tolerance corruption campaign against corrupt Party members. In October 2017, during the 19th National Congress of the Communist Party of China (“CPC”), Xi stated that the CPC will “work for the adoption of national anti-corruption legislation and create a corruption reporting platform that covers both disciplinary inspection commissions and supervision agencies,” and “deepen reform of the national supervision system, conduct trials throughout the country, and establish supervisory commissions at the national, provincial, city, and county levels, which share offices and work together with the Party’s disciplinary inspection commissions.” The CPC report makes it clear that the CPC will impose tight constraints, maintain a tough stance, and promote long-term deterrence. The CPC itself has emphasized its willingness to punish both those who take bribes and those who offer them.</p> <p><u>New Laws and Regulations</u></p> <p>As described above in the Commercial Bribery section, amendments to the AUCL took effect in January 2018. The New AUCL introduced new definitions, enhanced enforcement measures, and tightened sanctions to regulate commercial bribery.</p> <p><u>Case Developments</u></p> <ul style="list-style-type: none"> In November 2018, the Shanghai Administration for Market Regulation (“AMR”) penalized Bang & Olufsen Trading (Shanghai) Co., Ltd., a subsidiary of Bang & Olufsen Limited, for providing “sales commissions” to two interior designers to promote its products to the designers’ clients. The Shanghai AMR fined Bang & Olufsen Trading RMB 100,000 and confiscated its illegal gains in the amount of RMB 807,333 (USD 117,363). In November 2018, the Shanghai AMR fined Shanghai Yingfa Medical Devices Co., Ltd. Yingfa sold medical devices to Nantong Third People’s Hospital and then paid the hospital administrative fees based on an oral agreement. The hospital, however, did not provide administrative services on which those fees were based. Because these events occurred before the New AUCL became effective, Yingfa was fined only RMB 15,000 (USD 2,180) and surrendered illegal gains in the amount of RMB 74,050 (USD 10,764). In May 2018, the Chengdu AMR penalized Chengdu Huangtai Trading Co., Ltd. because of Huangtai’s verbal agreement with three travel agencies in which Huangtai

		<p>provided tourist guides a fixed parking fee and “sales commissions” in cash based on the guides’ product promotion. The Chengdu AMR fined Huangtai RMB 105,000 (USD 15,262) pursuant to Article 7 and 19 of the AUCL.</p> <ul style="list-style-type: none"> • In August 2018, the Leshan Administration for Industry and Commerce (“AIC”) fined Leshan Bogutang Orthopedics Hospital (“Bogutang”) for providing “information fees” to emergency services dispatchers and crews in exchange for patients’ medical information. By doing so, Bogutang provided emergency medical services ahead of other hospitals and thus disrupted the dispatching rules of emergency medical services. The Leshan AIC fined Bogutang RMB 400,000 (USD 58,144) pursuant to Article 7 and 19 of the AUCL. • In March 2019, the Shanghai AMR fined Daifuku (China) Manufacturing Co., Ltd. Daifuku promised to provide the management personnel of its client with non-business related travel in exchange for the client’s business. After the two signed a sales agreement, Daifuku arranged travel to Japan for three of the client’s managers. The Shanghai AMR fined Daifuku RMB 150,000 (USD 21,839) and confiscated illegal gains of RMB 1,110,505.26 (USD 161,687). • In January 2019, the Shanghai AMR fined Kawashima Textile Manufacturer (Shanghai) Ltd. Kawashima provided free goods (such as food) to employees of its four suppliers for the purpose of maintaining a good relationship with the suppliers and ensuring timely delivery. The AMR did not find that those payments furthered business deals, and thus no illicit gain was identified. Nevertheless, Kawashima was fined RMB 200,000 (USD 29,119) for providing valuables to suppliers. • In September 2018, the Shanghai AMR fined G-Fortune Container Service (Shanghai) Co., Ltd. G-Fortune, a company that provided services for loading and unloading containers, agreed to provide rebates to shipping companies in exchange for the shipping companies’ recommendations of new customers. The Shanghai AMR fined G-Fortune RMB 100,000 (USD 14,559) and confiscated its illegal gains of RMB 862,923.31 (USD 125,640). • In January 2018, the Shanghai AMR fined TCI (Shanghai) Development Co., Ltd. for providing gift cards and pre-paid cards to employees of its clients. The gift cards were recorded under the “Marketing Communication Fees” section. TCI was fined RMB 50,000 (USD 7,279) and ordered to disgorge RMB 867,873.31 (USD 126,361) in illegal gains.
<p>Participation in International Anti-Corruption Conventions</p>	<p>OECD Convention</p>	<p>No (observer status)</p>
	<p>UNCAC</p>	<p>Signed December 10, 2003 Ratified October 27, 2005</p>
	<p>APEC Anti-Corruption Declaration</p>	<p>Signed November 8, 2014</p>
<p>Last Updated</p>		<p>June 14, 2019</p>

Region		Asia Pacific
Country		Hong Kong
2018 CPI	Rank	14/180
	Score	76
The Law on Bribery	Bribery of Domestic Officials	<p>The primary anti-corruption legislation in Hong Kong is the Prevention of Bribery Ordinance (Cap. 201) (“POBO”), which sets out a number of bribery-related offenses with respect to public officials and certain persons (defined in the POBO as “agents”) in the private sector. It is supplemented by legislation dealing with elections, crime, proceeds of crime, and money laundering, including the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), the Crimes Ordinance (Cap. 200), the Organized and Serious Crimes Ordinance (Cap. 455), the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405), and the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance (Cap. 615). Local officials and other culprits are often also charged with or alternatively charged with common law offenses of misconduct in public office and conspiracy. The threshold to convict a public officer under the common law offense of misconduct in public office is lower than that under the POBO.</p> <p><u>Offering a bribe:</u> It is an offense for any person in Hong Kong or elsewhere to, without lawful authority or reasonable excuse, offer any advantage to the Chief Executive of Hong Kong or any public servant as an inducement to or reward for the performance or abstaining from performance of any act in his/her capacity as the Chief Executive or public servant (Section 4 POBO).</p> <p><u>Soliciting or accepting a bribe:</u> Any prescribed officer who solicits or accepts any advantage without the general or special permission of the Chief Executive of Hong Kong commits an offense (Section 3 POBO).</p> <p>It is an offense for the Chief Executive of Hong Kong or any public servant in Hong Kong or elsewhere to, without lawful authority or reasonable excuse, solicit or accept any advantage as an inducement to or reward for the performance or abstaining from performance of any act in his/her capacity as the Chief Executive or public servant (Section 4 POBO).</p> <p>In addition to the above, there are a number of other offenses including offering to, or, solicitation or acceptance by, public servants in connection with contracts, tenders, and auctions with public bodies, and by persons having dealings with public bodies (Sections 5-8 POBO).</p> <p><u>Extraterritorial application of POBO:</u> The offenses in relation to the bribery of the Chief Executive and public servants under Section 4 of the POBO outlined above are expressed to apply whether the advantage is offered, solicited, or accepted in or outside of Hong Kong. There is no express provision for extraterritorial jurisdiction in relation to the other offenses, but the Court of Final Appeal in Hong Kong has held that bribes offered in Hong Kong to a foreign public official for acts or forbearance outside Hong Kong are liable to be prosecuted under Hong Kong law, and the Independent Commission Against Corruption (“ICAC”) will have jurisdiction to investigate. Commentators have concluded that, as a result of this decision, the POBO has an extraterritorial “flavor” and that transactions between “principals” and “agents” (in effect, any commercial transaction) outside Hong Kong may be subject to scrutiny under Hong Kong law if the circumstances result in advantages being offered in Hong Kong.</p> <p><u>Penalties:</u> Penalties for the above offenses generally range from HKD 500,000 to HKD 1 million and imprisonment for seven to 10 years for conviction on indictment, and from HKD 100,000 to HKD 500,000 and imprisonment for three years for summary conviction. Penalties for offenses under Section 3 of the POBO consist of a fine of HKD 100,000 and imprisonment for one year. The court may also order additional fines to be paid.</p>
	Bribery of Foreign Officials	The POBO does not specifically stipulate an offense in relation to the bribery of foreign officials. However, as noted above, the Court of Final Appeal has indicated that the provisions prohibiting bribery of an agent (i.e., the commercial bribery provisions outlined

		below) may apply in situations where an advantage is offered in Hong Kong to a foreign official and the act or forbearance concerned is in relation to that foreign official's duties outside of Hong Kong.
	Commercial Bribery	<p>Bribery in the private sector is also prohibited by the POBO. It is an offense for any "agent" who, without lawful authorization or reasonable excuse, solicits or accepts any advantage as an inducement to or reward for him/her to do or forebear from doing any act in relation to his/her "principal's" business or affairs. Likewise, it is an offense to offer such advantages to an agent (Section 9 POBO).</p> <p>Further, any agent who, with intent to deceive his/her principal, uses any document in which his/her principal is interested and which he/she knows to be materially defective, and intends on misleading, commits an offense (Section 9 POBO).</p>
Definitions	Government Employee	<p>"Agents" include public servants and persons employed by or acting for another person.</p> <p>"Prescribed officers" are persons who hold an office of emolument under the government of Hong Kong or are appointed to certain offices specifically set out in the POBO.</p> <p>"Principal" includes:</p> <ul style="list-style-type: none"> • An employer; • A beneficiary under a trust; • A trust estate as though it were a person; • Any person beneficially interested in the estate of a deceased person; • The estate of a deceased person as though it were a person; and • The public body, in the case of an employee of a public body. <p>"Public bodies" include government bodies and certain entities that are deemed to be public bodies.</p> <p>"Public servants" are defined to include prescribed officers and employees of public bodies.</p>
	Gratification (Gifts/ Entertainments/ etc.)	<p>"Advantage" is defined in the POBO to include money, gifts, loans, commissions, offices, contracts, services, favors, and the discharge of liability, but does not include entertainment.</p> <p>"Entertainment" means the provision of food or drink, for consumption on the occasion when it is provided, and includes any other entertainment connected with or provided at the same time as such provision.</p> <p>Generally, seasonal or customary gifts are considered "advantages" regardless of the value of such gifts.</p>
Current Status	Enforcement Body	Anti-corruption laws are primarily enforced by the ICAC in accordance with powers vested upon it pursuant to the Independent Commission Against Corruption Ordinance (Cap. 204) and the POBO.
	Issues in Enforcement	<p>Following the conviction of the former Chief Executive of Hong Kong, Donald Tsang Yam-kuen, for misconduct in public office, as early as 2012, private member bills have been introduced to expand the POBO to cover the Chief Executive. In January 2019, Chief Secretary Matthew Cheung said the government was studying the relevant issues and that the government did not have a specific date set for introducing the amendment bill on the POBO to the Legislative Council.</p> <p>Thus far, little progress has been made in response to these calls.</p> <p>In March 2019, government officials advised the Legislative Council that proceeding with a discussion of the bill was not appropriate. The written consent of the Chief Executive is said to be required for such bills relating to government policies before being presented for discussion at the panel.</p>
	Recent Movement	<p>High-Profile Cases and Important Developments in 2018/2019</p> <p>The trend established by the following high-profile cases demonstrates that ICAC will continue to combat corruption regardless of the social status of well-known individuals and their political alignments.</p>

- In August 2018, the Court of Appeal dismissed former Chief Executive of Hong Kong Donald Tsang Yam-kuen's application for appeal against conviction. Tsang was charged with two counts of misconduct in public office. The first charge was for failing to declare or disclose, or purposely concealing, dealings with a major shareholder of a radio company in which various broadcast license applications by that company were being discussed and approved at Executive Council meetings. Tsang's second charge was for failing to declare or disclose, or purposely concealing, his engagement of an architect for the interior design of a flat for his own benefit when he suggested that the same architect be nominated under Hong Kong's honors and awards system. Leave was dismissed on grounds that the prosecution's case did not depend on a finding that the arrangement was corrupt and rather it was compelling that Tsang's nondisclosure of his dealings was made deliberately. The Court of Appeal further held that the trial judge's directions were correctly and necessarily given and that given the context of the case, a Hong Kong jury would readily understand the seriousness of the matter without an explicit statement by the trial judge on the importance of the consequences of misconduct in determining whether it was serious enough to warrant a conviction. The former Chief Executive has since been granted leave to appeal in the Court of Final Appeal. The issue in dispute is whether the Court of First Instance judge gave correct instructions to the jury—specifically, whether Tsang was aware of the unlawfulness of nondisclosure of his dealings. The judgment of the Court of Final Appeal is still pending.
- The ICAC charged two persons in August 2018 with bribery and misconduct in public office in connection with a flats-swap deal. Former Deputy Secretary for Economic Development and Labour Wilson Fung Wing-yip faces two charges: (i) public servant accepting an advantage, contrary to Section 4(2)(a) of the POBO; and (ii) misconduct in public office, contrary to Common Law. Chan Ung-iok, the head of Helicopters Hong Kong Limited, Hong Kong Express Airways Limited, and/or Heli Express Limited, faces a charge of offering an advantage to a public servant, contrary to Section 4(1)(a) of the POBO. The former government official who had been in charge of air service negotiations and air traffic rights is accused of accepting more than HKD 500,000 in bribes from the Macau businesswoman. According to the prosecution, Fung not only failed to declare a conflict of interest but also acted in a manner favorable to Chan's companies over a three-year period between 2004 and 2006. Fung is alleged to have received favors from Chan at a time when he was handling applications from firms owned by the businesswoman in relation to air traffic rights and some other proposals related to the aviation business. Having had more than 20 years' experience as a civil servant, the prosecutor argued that Fung deliberately chose to conceal the dealings from the government. Both Fung and Chan have pleaded not guilty to bribery, while Fung also denies a charge of misconduct in public office. The proceedings are ongoing, and closing submissions were set to be heard on June 18, 2019.
- A defeated candidate of the 2016 Legislative Council General Election, Leticia Lee See-yin, was charged by the ICAC with engaging in corrupt conduct at the election. Lee faced one count of engaging in corrupt conduct at election by failing to dispose of certain election donations in compliance with Section 19(2), contrary to Section 19(5) of the Elections (Corrupt and Illegal Conduct) Ordinance. Lee was accused of receiving nine election donations totaling HKD 22,530. The law forbids the use of election donations if they are for amounts of HKD 1,000 or more, and she should have given the money to charity instead. In February 2019, after Lee agreed with the prosecution over the facts of the case, the prosecution decided to offer no evidence against her. A bind-over order was made, requiring Lee to maintain good behavior for 18 months.
- In May 2019, a managing director and former vice-chair of a major global investment bank was charged with two counts of offering an advantage to an agent, contrary to Section 9(2)(b) of the POBO. The charge involved offering a job to the son of a potential client. At the time, the individual charged was employed by a subsidiary of the bank and was responsible for sourcing business for it and its affiliates and allegedly offered employment to the son of the chairman of a company as a reward for the chairman favoring the bank to work on the company's initial public offering. According to the ICAC release, the bank's "client referral program" dates back to at least 2007, whereby it began to hire candidates referred by its clients or potential client.

Participation in International Anti-Corruption Conventions	OECD Convention	No
	UNCAC	Signed December 10, 2003 Ratified January 13, 2006 (Hong Kong is a participant by virtue of China's participation in the UNCAC)
Last Updated		June 10, 2019

Region		Asia Pacific
Country		India
2018 CPI	Rank	78/180
	Score	41
The Law on Bribery	Bribery of Domestic Officials	<p>The primary anti-corruption law in India is the Prevention of Corruption Act, 1988 (“PCA”). The PCA consolidated all prior laws dealing with corruption and the Lokpal and Lokayuktas Act, 2013 (“LLA”), which came into force on January 16, 2014. An amendment to the PCA was enacted in July 2018, pursuant to which: (i) the act of giving a bribe whether directly or indirectly with the intention to induce a public servant to improperly perform his duties is also an offense; and (ii) corporations (and their officers) can be held liable for violations under the PCA. Prior to the amendment, the PCA primarily criminalized the <i>receipt</i> of bribes by public servants and punished only individuals engaging in acts of corruption.</p> <p>Other legislation includes the Prevention of Money Laundering Act, 2002, which provides for confiscation of property derived from, or involved in, money laundering, and the Benami Transaction (Prohibition) Act, 1988 (“Benami Act”). Subject to certain exceptions, the Benami Act prohibits benami transactions (i.e., a transaction in which property is transferred to one person for consideration paid or provided by another person). The Benami Transactions (Prohibition) Amendment Act 2016 came into force in November 2016.</p> <p>At the state level, state governments have local laws that address certain aspects of corruption. Maharashtra was the first state to establish a Lokayukta (anti-corruption ombudsman) in 1972.</p> <p>Further, in May 2014, the Whistle Blowers Protection Act, 2011, came into force, which enables any person (i.e., a whistleblower) to report an act of corruption, willful misuse of power or discretion, or criminal offense by a public servant. The Whistle Blowers Protection (Amendment) Bill, 2015, which seeks to amend the act, is currently pending in the Upper House of Parliament.</p> <p>In May 2015, Parliament passed the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015. This act targets the circulation of black money, undisclosed foreign assets, and income. Penalties range from fines to imprisonment of three months to 10 years, or both. If a company is liable, every responsible person in the company is liable unless it is proven that the offense was committed without that person’s knowledge.</p> <p><u>Offering a bribe:</u> The PCA criminalizes the act of offering a bribe to a public servant with the intention of inducing or rewarding a public servant for the improper performance of any public function (the PCA uses the term “undue advantage,” which is not limited to pecuniary gratification). It is immaterial whether the public servant accepted the offer or acted on it. The offense of offering a bribe is punishable with fine or imprisonment for a term of three to seven years or both. (PCA §7). The Act includes an exception for persons who are compelled to give an undue advantage, provided they report it to the investigating authorities within seven days of giving such undue advantage. (PCA §8).</p> <p><u>Receiving a bribe:</u> The PCA criminalizes the receipt of or an attempt to receive any “undue advantage” by a “public servant” whether directly or through a third party with the intention of, or as a reward for performing, a public duty improperly or dishonestly, or forbearing to perform such duty either by himself or another public servant. (PCA §§7 and 7A).</p> <p><u>Corporate liability:</u> Pursuant to the recent amendments, the PCA now contains a provision expressly holding corporations (including entities incorporated outside India that carry on any business in India) and their officers liable for an offense committed under the PCA. (PCA §9). Fines may be imposed on corporations, and if any offense is committed with the consent or connivance of any director, manager, secretary, or officer, such individual may be liable to fine or imprisonment for a term of three to seven years or both. (PCA §10).</p>
	Bribery of Foreign Officials	There is currently no law in India that criminalizes bribery of foreign public officials. To overcome this and to give effect to the UNCAC, the Prevention of Bribery of Foreign Public

		<p>Officials and Officials of Public International Organizations Bill, 2011, was introduced in the Lower House in March 2011. According to the bill, a foreign public official or an official of a public international organization shall be punished by imprisonment and a fine if he/she accepts or solicits any undue advantage in the exercise of his/her official function. Further, in relation to the conduct of international business in order to obtain or retain business, any person who gives or promises to give or offer an undue advantage to either type of official, such that the official acts or refrains from acting in the exercise of his/her official duties, shall also be punished by imprisonment and a fine. It would also be a crime to abet or attempt to commit any of the aforementioned acts under the bill. However, this bill has since lapsed. Reports suggest that the government is considering introducing a revised draft of the bill with inputs from the Law Commission of India.</p>
	Commercial Bribery	<p>There is currently no law in India prohibiting private commercial bribery. However, the (Indian) Companies Act 2013 contains fines and penalties for “fraud” (which is broadly defined to potentially include private bribery) and falsification of accounts. Reports suggest that the government has circulated a proposal to amend the Penal Code to criminalize the offering or giving, in the course of economic, financial, or commercial activities, bribes to a private-sector entity in line with India’s commitments under the UNCAC.</p>
Definitions	Government Employee	<p>“Public servant” has been broadly defined under the PCA to include any person in government service or working for a state-owned company; any judge, arbitrator, or person who holds an office by virtue of which he/she is authorized or required to perform any public duty; any office-bearer of a registered cooperative society engaged in agriculture, industry, trade, or banking; any person receiving or having received any financial aid from the government or from any corporation established by or under a Central, Provincial, or State Act; or any authority or body owned or controlled or aided by the government or a government company, an office-bearer or employee of an educational, scientific, social, cultural, or any other institution which receives or has received financial assistance from the government (PCA §2(c)).</p> <p>In a 2016 judgement, the Supreme Court of India expanded the understanding of “public servant” under the PCA to include all officers of a private banking company since by virtue of their office they discharge public duties (<i>C.B.I. v. Ramesh Gelli & Ors</i>).</p> <p>“Public servant” under the LLA has a wider scope than under the PCA and includes any person who is or has been: (i) a prime minister; (ii) minister of the union; (iii) member of either house of Parliament; (iv) any Group “A” or Group “B” officer equivalent or above from among the public servants defined under the PCA when serving, or who has served, in connection with the affairs of the union; (v) a chairperson, member, officer, or employee in a body, board, corporation, authority, company, society, trust, or autonomous body (by whatever name called) established by an act of Parliament or wholly or in part financed by the Central Government or controlled by it; (vi) a director, manager, secretary, or other officer of every other society or association of persons or trust, by whatever name called, wholly or in part financed by the Central Government and the annual income of which exceeds such amount as the Central Government may, by notification, specify; and (vii) a director, manager, secretary, or other officer of every other society or association of persons or trust in receipt of any donation from any foreign source under the Foreign Contribution (Regulation) Act, 2010, in excess of 10 lakh rupees in a year or such higher amounts as the central government may prescribe. (LLA §14).</p>
	Gratification (Gifts/ Entertainments/ etc.)	<p>The word “undue advantage” means any gratification whatever, other than legal remuneration. “Gratification” is not restricted to pecuniary gratification or gratifications estimable in money. (PCA §2(d)).</p> <p>“Legal remuneration” is not restricted to remuneration paid to a public servant but includes all remuneration which he/she is permitted to accept by the government or the organization which he/she serves. (PCA §2(d)).</p>
	Current Status	Enforcement Body

		<p>the government. State governments investigate corruption cases through the states' respective anti-corruption bureaus.</p> <p>Special judges are appointed by either the central or state government to try offenses punishable under the PCA.</p> <p>The LLA provides for the creation of a Lokpal for the union, which shall have an Inquiry Wing and a Prosecution Wing. It also provides for the creation of a Lokayukta for the states to deal with corruption against certain public functionaries.</p> <p>The Serious Fraud Investigation Office ("SFIO") investigates company affairs. It is the investigatory arm of the Ministry of Corporate Affairs. If a matter is handled by the SFIO, no other investigatory body can open a parallel investigation.</p>
	Issues in Enforcement	<p>Except as provided under the LLA, prosecution of public servants under the PCA requires prior sanction of the government by which the public servant is employed. The only exception under the PCA is that no approval is required for cases involving arrest of a person on the spot on the charge of accepting or attempting to accept any undue advantage either for himself or any other person. The Supreme Court of India observed that the relevant authority should take appropriate action on the representation made by a citizen for sanction of the prosecution of a public servant within three months.</p> <p>As at June 2018, there were nearly 33 million corruption cases pending before the Indian judiciary. The high pendency of cases is one of the greatest challenges in enforcement.</p>
	Recent Movement	<p><u>The Prevention of Corruption (Amendment) Act, 2018</u>: As described above, the amendment to the PCA came into effect in July 2018 and has brought about a significant change to the PCA since its inception. Pursuant to the amendment, giving a bribe to a public servant is now a punishable offense. The amendment also introduced direct liability for commercial organizations and their directors and officers. This amendment is in line with the Indian government's agenda to eliminate corruption and improve transparency in the delivery of public service. It remains to be seen how the amendments will be applied and enforced in practice.</p> <p><u>Benami Transaction Act</u>: As mentioned above, the Benami Transaction (Prohibition) Act, 2016 came into effect in November 2016. The Benami Transaction Act was passed to overcome the shortcomings of the 1988 Benami Act and to consolidate all prior laws relating to benami transactions. This act prohibits benami transactions, expands the scope of the definition of "benami transaction," and provides for confiscating such properties. Benami transactions include transactions in which property is transferred to one person for consideration paid or provided by another person, transactions made with a fictitious name, transactions where the owner of the property is not aware of or denies the ownership, and transactions where the person providing the consideration is not traceable.</p> <p><u>Elimination of "Black Money"</u>: In November 2016, the government announced demonetization of all INR 500 and INR 1000 currency notes (i.e., no longer recognizing such notes as legal tender), citing the elimination of "black money" as one of the primary reasons for this move.</p>
Participation in International Anti-Corruption Conventions	OECD Convention	No
	UNCAC	Signed Dec. 9, 2005 Ratified May 9, 2011
Last Updated		June 14, 2019

Region		Asia Pacific
Country		Indonesia
2018 CPI	Rank	89/180
	Score	38
The Law on Bribery	Bribery of Domestic Officials	<p>Anti-corruption provisions are included in the Eradication of the Criminal Acts of Corruption Law (Law No. 31/1999, amended by Law No. 20/2001 and Law No. 7/2006; collectively, “Anti-Corruption Laws”), and cover both the offeror and the recipient of the bribe.</p> <p>Other relevant provisions are found in Law No. 28/1999 regarding State Administrators Free from Corruption, Collusion, and Nepotism, Law No. 30/ 2002 regarding the Commission for the Eradication of Corruption (“KPK”), and Law No. 8/2010 regarding the Prevention and Eradication of Money Laundering. Further, the Indonesian Supreme Court has recently issued Regulation No. 13/2016 concerning procedures for handling corporate crimes.</p> <p><u>Offering a bribe</u>: Criminal charges may be imposed on one who gives or promises a government employee something:</p> <ul style="list-style-type: none"> • In exchange for (or due to) the commission or the omission of an act that contradicts the civil servant’s obligations: one to five years’ imprisonment and/or a fine of 50 million to 250 million rupiah (Law No. 31/1999 art. 5). • In relation to the power or authority of the position (without requesting an exchange in performance): up to three years’ imprisonment and/or a maximum fine of 150 million rupiah (Law No. 20/2001 art. 13). <p><u>Receiving a bribe</u>: Criminal charges may be imposed on a civil servant or state administrator (or judge) who receives gifts or promises, knowing/suspecting that they were given:</p> <ul style="list-style-type: none"> • Due to his/her position and authority: one to five years’ imprisonment and/or a fine of 50 million to 250 million rupiah (Law No. 31/1999 art. 11). • To influence his/her behavior in committing or omitting an act (or ruling in court) that contradicts his/her obligations: life imprisonment or four to 20 years’ imprisonment and a fine of 200 million to 1 billion rupiah (Law No. 31/1999 art. 12). <p><u>Causing loss to the state</u>: Criminal charges can be imposed on anyone who may cause loss to the state finance or economy by:</p> <ul style="list-style-type: none"> • Illegally committing an act to enrich himself/herself or another: life imprisonment or four to 20 years’ imprisonment and a fine of 200 million to 1 billion rupiah (Law No. 20/2001 art. 2). • Abusing his/her authority with an intention to earn profits: life imprisonment or one to 20 years’ imprisonment or a fine of 50 million to 1 billion rupiah (Law No. 20/2001 art. 3). <p><u>Corporate liability</u>: If a corrupt act is conducted by or for a corporation, the corporation or the board may be held liable (Law No. 31/1999 art. 30). For the settlement of corporate crimes, Supreme Court Regulation No. 13/2016 provides the scope of the liability of corporations and the parties who will be held accountable in any given case, the parties who will represent the companies during criminal proceedings, and the sanctions that can be imposed.</p> <p>For corrupt acts involving amounts less than 5 million rupiah, the maximum term of imprisonment is three years, and the maximum fine is 50 million rupiah (Law No. 20/2001).</p> <p>A corporation is a well-organized group of people and/or assets regardless of whether or not it is a legal entity.</p>

	Bribery of Foreign Officials	<p>Law No. 7 of 2006 concerning the Ratification of United Nations Convention Against Corruption, 2003, ratified the UNCAC, thereby prohibiting the bribery of foreign public officials. However, there is no actual legislation that implements this prohibition, and therefore the bribery of foreign officials is not an enforceable crime in Indonesia.</p> <p>The government is working to reform the Anti-Corruption Laws, and the draft in circulation contains provisions that prohibit the bribery of foreign public officials. However, it is unclear whether the final version will contain such provisions and whether the bill will be passed.</p>
	Commercial Bribery	<p>Indonesia does not have any law that specifically prohibits bribery in the private sector. However, the broad definition of “government official or employee” in the Anti-Corruption Laws potentially covers a large number of enterprises by including: (i) corporations that receive assistance from state finance or regional finance; and (ii) other corporations that use capital or facilities provided by the state or the public.</p> <p>Nonetheless, bribery in the private sector is covered by Article 20 of Law 20/2001 if a corporate crime is committed by or on behalf of a corporation; in that case, the corporation or its directors may face criminal prosecution. The principal penalty that can be imposed on a corporation is a fine equal to the maximum penal provision plus one-third. Separately, the KPK is also discussing an amendment of Law 20/2001 to include provisions for bribery in the private sector.</p>
Definitions	Government Employee	<p>Aside from actual civil servants, state administrators (elected and appointed), and members of the armed forces, “government employees” under the Anti-Corruption Laws include persons receiving salaries or wages from: (i) state finance or regional finance; (ii) a corporation which receives assistance from state finance or regional finance; or (iii) other corporations which use capital or facilities provided by the state or the public.</p> <p>This definition covers employees of state-owned enterprises but may also be interpreted to include foreign investment companies which enjoy exemptions from import duties (e.g., master list facilities) or banks that receive liquidity loans.</p>
	Gratification (Gifts/ Entertainments/etc.)	<p>The Anti-Corruption Laws do not discuss travel or entertainment, etc., but these may all constitute “gratification” and may be considered a bribe if given in relation to the receiver’s position, or in exchange for performance.</p> <p>If the gratification has a value of 10 million rupiah or more, then the recipient has the burden of proving that it was not a bribe (if lower, the public prosecutor has the burden).</p> <p>Receipt of gratification is not a bribe if the receiver reports it to the KPK; the KPK will determine if the gratification can be kept (Law No. 20/2001, art. 12 B).</p>
Current Status	Enforcement Body	<p>The KPK was established pursuant to Law No. 30/2002 and acts as an independent organization that is authorized to investigate and prosecute crimes of corruption where the loss to the state is at least 1 billion rupiah, the crime involves law enforcement officials, or the crime attracts public attention and concern.</p> <p>For crimes that involve lower levels of loss or public concern, the police and the District Attorney’s Office may conduct the investigation.</p> <p>In addition, for the purpose of combating money laundering practices, Indonesia has established an anti-money laundering regime by setting up the Indonesian Financial Transaction Reporting and Analysis Center (<i>Pusat Pelaporan dan Analisis Transaksi Keuangan</i> or “PPATK”). PPATK specifically assists in the law enforcement process by creating guidelines and procedures for reporting suspicious financial transactions which indicate money laundering offenses.</p> <p>The Ombudsman, an independent state organ authorized to supervise the administration of public services, also plays a prominent role in encouraging a corruption-free government and public administration by actively monitoring public service administration and investigating any allegation of practices of maladministration, collusion, corruption, and nepotism carried out by public officials.</p>

	<p>Issues in Enforcement</p>	<ul style="list-style-type: none"> • Weak protection for whistleblowers: Despite the passage of the Protection of Witnesses and Victims Law (Law No. 13/2006), whistleblowers are not always protected from retaliation. The government recently amended the law by Law No. 31/2014, but protection for whistleblowers is still an issue. In addition, several government agencies (e.g., the Indonesian Investment Coordinating Board and National Public Procurement Agency) have enacted their own regulations on whistleblower protection systems to enhance good governance practices within their institutions and provide a clear mechanism of protection for whistleblowers. • The KPK is authorized to investigate and prosecute only crimes that meet certain threshold requirements. • The KPK has very limited resources. • Recurring attempts have been made to weaken the KPK’s powers, such as by revising the authority of the KPK through judicial review of the KPK law. • The development and supervision of judges in the corruption criminal justice system should be further improved, as there are still judges who are dealing with a number of corruption cases.
	<p>Recent Movement</p>	<p>The KPK and the State Attorney’s Office more often use money laundering articles in the investigation and prosecution of corruption in cases where the crime involves the use of proceeds arising from a corrupt act.</p> <p>The Anti-Corruption Laws already set out several provisions which aim to penalize companies engaging in corrupt practices. However, the existing provisions have failed to expressly define how corporations may be liable for corrupt acts with regard to their involvement in the acts of corruption. In order to establish a more effective deterrent against corporations that are committing criminal acts, the Supreme Court, with the cooperation of other stakeholders including the KPK, issued Regulation No. 13 of 2016 on Procedures for the Settlement of Corporate Crimes, which came into force on December 29, 2016. Under this regulation, companies may now be subject to criminal penalties, which comprise primary sanctions in the form of fines, and secondary sanctions or disciplinary measures.</p> <p>The KPK is discussing whether the Anti-Corruption Laws should be amended in order to supplement existing provisions addressing corruption committed by corporations.</p> <p>Furthermore, in 2018 Indonesia enacted two new regulations as a strong commitment to the anti-corruption act: President Regulation No. 54 of 2018 concerning National Strategic for Corruption Prevention (“President Regulation 54/2018”) and Government Regulation No. 43 of 2018 concerning Procedures for Implementing and Awarding Community Participation in the Prevention and Eradication of Corruption Crimes (“Government Regulation 43/2018”).</p> <p>The main purpose of President Regulation 54/2018 is to stimulate the corruption prevention to be more effective and efficient by focusing on several sectors, specifically on:</p> <ul style="list-style-type: none"> • Licensing and Commerce; • State Finances; and • Law Enforcement and Bureaucratic Reform. <p>President Regulation 54/2018 also sets guidelines regarding strategic efforts to be implemented by ministries, institutions, regional governments, and other stakeholders in order to prevent corruption, encourage a corruption prevention program that is oriented to outcomes and impacts, and increase the synergy between the corruption prevention program and the central government, regional governments, stakeholder policies, and the KPK strategic policy.</p> <p>Further to the above, the intention of Government Regulation 43/2018 is to stimulate the community contribution in fighting corrupt action. The most significant differences in the new regulation concern rewards of up to 200 million rupiah for persons who contribute to the prevention and eradication of criminal corruption.</p>

Participation in International Anti- Corruption Conventions	OECD (Organisation for Economic Co- operation and Development) Convention	No. However, Indonesia formally endorsed the action plan of the Anti-Corruption Initiative for Asia-Pacific under the joint leadership of the Asian Development Bank and the OECD on November 30, 2001.
	UNCAC (United Nations Convention against Corruption)	Signed December 18, 2003 Ratified September 19, 2006
	UNTOC (United Nations Convention against Transnational Organized Crime)	Signed December 12, 2000 Ratified April 20, 2009
Last Updated		June 10, 2019

Region		Asia Pacific
Country		Japan
2018 CPI	Rank	18/180
	Score	73
The Law on Bribery	Bribery of Domestic Officials	<p>Anti-bribery provisions are included in the Penal Code (Act No. 45 of April 24, 1907) and the Act on Punishment of Public Officials' Profiting by Exerting Influence (Act No. 130 of November 29, 2000) ("APPOPEI").</p> <p><u>Offering a bribe:</u></p> <ul style="list-style-type: none"> • A person who gives, offers, or promises to give a "bribe" (as provided for in Penal Code arts. 197 through 197-4) shall be subject to up to three years' imprisonment with work or a fine of not more than 2.5 million yen (Penal Code art. 198). • A person who gives "property benefits" (as provided for in APPOPEI arts. 1 and 2) shall be subject to up to one year of imprisonment with work or a fine of not more than 2.5 million yen (APPOPEI art. 4). <p><u>Receiving a bribe:</u></p> <ul style="list-style-type: none"> • A public officer who accepts, solicits, or promises to accept a bribe in connection with his/her duties shall be subject to up to five years' imprisonment with work, and in the event that such public officer agrees to perform an act in response to a request, the public officer shall be subject to up to seven years' imprisonment with work (Penal Code art. 197). A public officer who agrees to perform an act in response to a request in connection with his/her duties that involves causing, requesting, or agreeing to a bribe to be given to a third party shall be subject to up to five years' imprisonment with work (Penal Code art. 197-2). • In the above two cases, a public officer who acts illegally or refrains from exercising his/her duty shall be subject to imprisonment with work for one year or more (Penal Code art. 197-3). The same shall apply when a public officer accepts, solicits, or promises to accept a bribe after such public officer acts illegally or refrains from exercising his/her duty. A public officer who accepts, solicits, or promises to accept a bribe as consideration for causing another public officer to act illegally or refrain from exercising his/her official duty shall be subject to five years' imprisonment with work (Penal Code art. 197-4). • A member of the House of Representatives/Councilors or a local government assembly who, in relation to contracts to be entered into by the central or local government (or by an entity for which one half or more of the capital subscription is owned by the national government or a local government), or in relation to administrative sanctions against a certain individual, accepts "property benefits" as consideration for exercising one's influence over a public officer to commit or omit the public officer's duty, with an agreement to act in response to a request, shall be subject to up to three years' imprisonment with work (APPOPEI art. 1. A sentence of up to two years' imprisonment with work can also be imposed on the secretary of the member of the House of Representatives/Councilors who violates this provision (APPOPEI art. 2)).
	Bribery of Foreign Officials	<p>Legislation in the form of amendments to the Unfair Competition Prevention Law (the "UCPL," Act No. 47 of May 19, 1993), which became effective as of February 15, 1999, covers bribery of foreign public officials (UCPL art. 18).</p> <p>A person who gives, offers, or promises any pecuniary or other advantages to a foreign public official to have the official commit or omit an act in relation to the performance of his/her official duties, or to have the official use his/her position to influence another foreign official to commit or omit an act in relation to the performance of his/her official duties, in order to obtain or retain an improper business advantage in the conduct of international business, shall be subject to up to five years' imprisonment with work and/or a fine of not more than 5 million yen (UCPL art. 18, para. 1 and art. 21, para. 2).</p>

		<p><u>Corporate liability:</u></p> <p>Corporate liability is covered only in the UCPL (bribery of foreign public officials).</p> <p>Where a representative, agent, employee or any other staff, etc., of a legal entity has committed a violation of Article 18 of the UCPL in connection with the operation of the legal entity, a fine of not more than 300 million yen can be imposed on the legal entity in addition to punishment of the offender (UCPL art. 22, paras. 1 and 2).</p>
	<p>Commercial Bribery</p>	<ul style="list-style-type: none"> • A company director, accounting advisor, company auditor, executive officer, or manager, among others, who accepts, solicits, or promises to accept property benefits in connection with such person’s duties in response to a wrongful request, as well as the person who has given, offered, or promised to give such benefits, shall be subject to up to five years’ imprisonment with work or a fine of not more than 5 million yen (Companies Act art. 967). • In addition, a person who has accepted, solicited, or promised to accept property benefits in relation to a statement of opinions or the exercise of a voting right at a shareholders’ meeting, the exercise of a right of a shareholder or creditor, the filing of a legal action under the Companies Act, or the intervention as a shareholder in a lawsuit, among others, as well as the person who has given, offered, or promised to give such benefits, shall be subject to up to five years’ imprisonment with work or a fine of not more than 5 million yen (Companies Act art. 968).
<p>Definitions</p>	<p>Government Employee</p>	<p>A public officer under the Penal Code shall mean a national or local government official, a member of an assembly or committee, or other employees engaged in the performance of public duties in accordance with laws and regulations (Penal Code art. 7).</p> <p>Foreign public officials under the UCPL include those who engage in: (i) public services for national or local foreign governments; (ii) services for an agency affiliated with a foreign national government; (iii) services for a public enterprise which is given special privileges by a foreign national government, etc.; (iv) public services for an international organization; and (v) affairs authorized by national or local foreign governments or an international organization and delegated by them (UCPL art. 18, para. 2).</p>
	<p>Gratification (Gifts/ Entertainments/ etc.)</p>	<p>Under the Penal Code, “bribery,” “property benefits,” and “pecuniary or other advantage” refer to any advantage or profit that serves to satisfy a demand or desire of a person and would cover any tangible or intangible advantages, including non-economic advantages such as a job position.</p> <p>Although there is no clear standard provided in existing precedent, gifts that are consistent with customary courtesy may be allowed in certain situations in light of the relationship between the public officer and the giver, the positions of the public officer and the giver, and the value of the gift, time, manner, etc. In addition, there is no mention of small facilitation payments in Japan’s anti-corruption laws, and no action is exempt from punishment on the grounds that it is a small facilitation payment.</p> <p>Public officials are required to observe ethical codes (Cabinet Order No. 101 of March 28, 2000), which are provided under the National Public Service Ethics Act (Act No. 129 of November 8, 1999). Pursuant to the ethical codes, public officials are prohibited from doing certain activities including: (i) receiving money, goods, or real estate as gifts from stakeholders; (ii) borrowing money from stakeholders; (iii) borrowing goods or real estate for free from stakeholders or at a cost to stakeholders; (iv) receiving services for free from stakeholders or at a cost to stakeholders; (v) receiving private equity from stakeholders; (vi) being entertained by stakeholders; (vii) playing golf or enjoying amusements with stakeholders; (viii) travelling with stakeholders (except for the purpose of public service); and (ix) causing stakeholders to do any of the aforementioned acts to or with a third party. In this context, a “stakeholder” means a person who conducts activities for which the public officer is concerned under his or her public duty. In addition, public officials are prohibited from being entertained or receiving property from non-stakeholders if it is not deemed reasonable by social standards.</p>

<p>Current Status</p>	<p>Enforcement Body</p>	<p>The Public Prosecutor’s Office and the National Police Agency.</p>
	<p>Issues in Enforcement</p>	<p>Since 1999 (when the law against bribery of foreign public officials entered into force) Japan has prosecuted only five foreign bribery cases and sanctioned 12 individuals and two companies, demonstrating an enforcement rate disproportionate to the size and export-oriented nature of its economy and the high-risk regions and sectors in which Japanese companies operate.</p> <p>The OECD Working Group on Bribery adopted its Phase 4 Report on Japan on June 27, 2019, which evaluates and makes recommendations on Japan’s implementation of the OECD Convention and the 2009 Recommendation of the Council for Further Combating Bribery of Foreign Public Officials in International Business Transactions. The Phase 4 Report highlighted the following issues with respect to Japan’s foreign bribery enforcement actions, including its low rates of detection, investigation, and conviction:</p> <ul style="list-style-type: none"> • Japan has detected only 46 allegations of foreign bribery since 1999, half of which the OECD brought to Japan’s attention; this number is particularly low for an economy as significant as Japan’s. • Japan has investigated only 30 of the 46 known allegations (65%). The remaining 16 allegations have not been formally investigated by law enforcement authorities (35%). • Only five cases of foreign bribery (11% of all allegations and 17% of all investigations) have been prosecuted and successfully concluded against at least one defendant. These cases have resulted in the conviction of only 12 individuals and two legal persons. Thirteen investigations were discontinued without sanctions. • The police and the prosecution lack proactivity in their foreign bribery investigations. • The MOJ’s role in transmitting or clarifying certain allegations may have contributed to unnecessary delays (between one and nine years) in the opening of investigations. • The police lack involvement in foreign bribery cases and do not routinely use available coercive measures, including search and seizure, in foreign bribery investigations. Instead, Japan relies too heavily on voluntary measures and confession. • The Ministry of Economy, Trade and Industry’s (“METI”) role in interpreting the foreign bribery offense and the MOJ’s involvement in specific foreign bribery cases raise concerns regarding the potential for undue influence based on considerations prohibited by Article 5 of the Convention. • Nationality jurisdiction over Japanese companies exists only if the individual who paid the bribe is a Japanese national or is a non-Japanese who conspired with an individual in Japan or with a Japanese national. • Japan’s statute of limitations time-bars several foreign bribery cases. • Japan’s sanctions for foreign bribery, both in law and in practice, do not sufficiently meet the standard under Article 3 of the Convention for either natural or legal persons. • The Japanese law does not sufficiently minimize the risk of retaliation to whistleblowers. • Japan’s ODA and export credit agencies are not sufficiently proactive in preventing and detecting foreign bribery. <p>In contrast, major Japanese companies have been sanctioned by foreign authorities in foreign bribery cases.</p> <p>The Phase 4 Report reiterates concerns already identified in previous evaluation phases of Japan and recommends certain measures, including that Japan should:</p> <ul style="list-style-type: none"> • Improve key elements of its legislative framework, in particular to increase the level of sanctions and the limitation period for foreign bribery; • Broaden its framework for establishing nationality jurisdiction over legal persons; • Encourage its agencies with potential for detecting foreign bribery to become more proactive in this respect;

		<ul style="list-style-type: none"> • Ensure that the Ministry of Justice’s role in transmitting and clarifying certain allegations does not create unnecessary delays in opening investigations; • Ensure that the prosecution’s role in conducting investigations and prosecutions is exercised independently of the executive, and in particular the Ministry of Justice and the Ministry of Economy, Trade, and Industry; and • Ensure that both the police and the prosecution are more proactive and coordinated when investigating foreign bribery, including by reducing the reliance on voluntary measures and confession.
	<p>Recent Movement</p>	<p>Revisions to the Guidelines to Prevent Bribery of Foreign Public Officials</p> <p>On July 30, 2015, METI revised the Guidelines to Prevent Bribery of Foreign Public Officials (“Guidelines”). The Guidelines aim to clarify what constitutes bribery of foreign public officials under the UCPL and describe an advisable internal control system to prevent such bribery.</p> <p>The revised Guidelines clarify the legal interpretations of the elements of bribery of foreign public officials (“for the purpose of obtaining or retaining improper business advantages” (UCPL art. 18, para. 1)) in order to prevent foreign bribery masked by a social occasion, as well as to avoid excessively shrinking business activities. The revised Guidelines, for example, clarify that demands for bribes from foreign public officials must, in principle, be rejected as such payments would be subject to criminal penalties, even in order to avoid being treated unreasonably and discriminately by the foreign public officials when passing through customs. On the other hand, the revised Guidelines also clarify that the payment may not be subject to criminal penalty if demands for bribes have continued despite the company’s refusal, and the payment has been made reluctantly to avoid damaging the company. As to social activities, the revised Guidelines illustrate examples of activities that would likely be subject to criminal penalty (e.g., providing cashable coupons) and those that may not be subject to such a penalty (e.g., providing reasonable dining or sightseeing incidental to an inspection).</p> <p>Moreover, the revised Guidelines clearly state that a company conducting international business transactions should organize and operate a system for the prevention of bribery of foreign public officials as a part of its internal control system. The revised Guidelines recommend that in organizing and operating such a system, the company should take a “risk-based approach” and consider the risks associated with the target countries, business fields, and types of activities, and list examples of high-risk countries, business fields, and activities. The revised Guidelines emphasize the importance of promoting, organizing, and operating such a system within subsidiaries and other affiliates (including overseas subsidiaries), the importance of monitoring its status, and the necessity of support from the parent company.</p> <p>In September 2017, METI further revised the Guidelines to provide a detailed description related to a forfeiture pursuant to the Act for Punishment of Organized Crimes, Control of Crime Proceeds and Other Matters, among other formal revisions.</p> <p>Mitsubishi Hitachi Power Systems Case in 2019</p> <p>In March 2019, the Tokyo District Court found two former executives of Japanese energy company Mitsubishi Hitachi Power Systems guilty of bribing public officials in Thailand with regard to unloading of materials for power plant construction. Under the plea system, the company escaped prosecution by providing information about illegal activities while the individuals involved were criminally charged and received suspended prison sentences of 18 and 16 months with probation for three years. This case attracted close attention from the public as this is the first case adopted under the plea bargain system introduced in Japan in 2018, which applies not only to cases of corruption but to all criminal matters.</p>
<p>Participation in International Anti-Corruption Conventions</p>	<p>OECD Convention</p>	<p>Yes</p>
	<p>UNCAC</p>	<p>Signed December 9, 2003 Accepted July 11, 2017</p>

Last Updated	January 17, 2018
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Region		Asia Pacific
Country		Laos
2018 CPI	Rank	132/180
	Score	29
The Law on Bribery	Bribery of Domestic Officials	<p>Under the Law on Anti-Corruption (No. 27/NA, December 18, 2012) (“Anti-Corruption Law”), both the offering and the receipt of a bribe are acts that constitute corruption and are therefore offenses under the Anti-Corruption Law.</p> <p><u>Offering a bribe:</u> The offer of a bribe is defined in Article 14 of the Anti-Corruption Law as the “offering, giving, or promise of money, property or any benefit by oneself or through a third person to a public official, directly or indirectly, [who] act[s] or refrain[s] from acting in the exercise of his/her official duties for the benefit of the person giving the bribe.”</p> <p><u>Receiving a bribe:</u> The receipt of a bribe is defined in Article 15 of the Anti-Corruption Law as “receiving, claiming, requesting or agreeing to accept material items or benefits from someone else by using one’s position, power and duties to provide direct or indirect benefit to the person giving the bribe.”</p> <p>Under Article 27 of the Anti-Corruption Law, it is prohibited for a person with position, power, and duty to, among other acts, give or receive money, material goods, or other benefits from any individual or organization, directly or indirectly relating to his functions and causing damage to the interests of the state or the rights and legitimate interests of citizens.</p> <p>Article 354 of the Penal Law (No. 26/NA, 17 May 2017) (“Penal Law”) defines “corruption” as an act (which includes the offering and taking of bribes) committed by an “official in a high ranking position [at the] administrative or management level, a technical staff, an enterprise’s employee or staff, a civil servant, military personnel, a police officer, the chief of a village [or an] officially authorized person, a foreign staff or the staff of an international organization.” Pursuant to Article 357 of the Penal Law, it is an offense for any person to commit corruption in the form of offering a bribe, which is giving, asking, or promising to give money, any property, or a benefit to such officials, either directly or through an intermediary, in return for such person to perform or refrain from performing his/her duties for the interest or benefit of the person offering the bribe. Pursuant to Article 358, it is an offense for such officials to commit corruption in the form of accepting a bribe, which is taking, asking, requesting, claiming, or agreeing to take money, any property, or a benefit in return for performing or refraining from performing one’s duties in order to provide a direct or indirect interest or benefit to the person giving the bribe.</p> <p><u>Facilitating a bribe:</u> Under Article 15 of the Anti-Corruption Law, it is an offense to accept a bribe by receiving or agreeing to accept material items or benefits from someone else by using one’s position, power, and duties to provide a direct or indirect benefit to the person giving the bribe. This provision would encompass situations where bribes are paid through intermediaries or third parties. In addition, under Article 369 of the Penal Law, intermediaries who offer or agree to give bribes to civil servants can be punished through imprisonment for no less than six months and up to a maximum of two years, and are also subject to a fine equal to the amount or value of the bribe.</p> <p><u>Corporate liability:</u> Under Article 9 of the Anti-Corruption Law, individuals, organizations, or entities may be implicated in anti-corruption offenses.</p> <p>Article 25 of the Penal Law defines “offender” as “an individual or legal entity who has committed any acts or omissions that cause danger to society and [where such acts or omissions] satisfy all the components of an offense as provided in the law.” Despite these legislative provisions, court decisions are generally not made public, and it is not clear that there has been any instance of a corporate entity being found liable under the Anti-Corruption Law.</p>
	Bribery of Foreign Officials	<p>Article 2 of the Anti-Corruption Law defines “corruption” as certain acts of an “official.” The definition of “official” includes the staff of international organizations and foreign</p>

		<p>staff. “Foreign staff” are defined as the foreign public staff of another country who have been assigned to work in Laos, and “staff of international organizations” is defined as persons assigned or permitted by an international organization to act on behalf of that organization in Laos. The bribery of a foreign official is a violation of the Anti-Corruption Law, provided that the offense takes place in Laos, since both the offering and the receipt of a bribe are acts that constitute corruption.</p> <p>Similarly, the definition of “corruption” provided by Article 354 of the Penal Law (the act of an “official in a high ranking position [at the] administrative or management level, a technical staff, an enterprise’s employee or staff, a civil servant, military personnel, a police officer, the chief of a village [or an] officially authorized person, a foreign staff or the staff of an international organization”) captures not only domestic officials (as described above) but also foreign officials. Thus, the bribery of a foreign official is a violation of the Penal Law provided that the offense takes place in Laos, since both the offering and the receipt of a bribe are acts that constitute corruption.</p>
	<p>Commercial Bribery</p>	<p>Article 2 of the Anti-Corruption Law and Article 354 of the Penal Law define “corruption” as certain acts (including bribery) of an “official.” The definition of “official” includes the staff of enterprises, and “staff of enterprises” means the staff of private domestic or foreign enterprises that operate in Laos.</p> <p>The bribery of a private person who is a member of the staff of a domestic or foreign private-sector enterprise is a violation of the Anti-Corruption Law as well as the Penal Law since both the offering and receipt of a bribe are acts that constitute corruption.</p>
<p>Definitions</p>	<p>Government Employee</p>	<p>The Anti-Corruption Law applies to “officials,” which covers government officials, among other individuals. “Government officials” means leaders at all levels of government, administrative staff, technical staff, civil servants, soldiers, police, the staff of state enterprises and state-mixed enterprises, village chiefs, and persons who are officially authorized and assigned to exercise any official right or duty.</p> <p>The corruption provisions of the Penal Law apply to “officials,” which is not defined but includes: “officials in high ranking positions [at the] administrative or management levels, technical staff, employees or staff of enterprises, civil servants, military personnel, police officers, village chiefs, officially authorized persons, foreign staff and the staff of an international organization.”</p>
	<p>Gratification (Gifts/ Entertainments/ etc.)</p>	<p>Under the laws of Laos, the term “bribery” is defined broadly and includes “money, property or any benefit.” Therefore, to the extent that a gift or meal, for example, is given for the purpose of inducing an official to “act or refrain from acting in the exercise of his/her official duties,” such gift or meal may be considered a bribe.</p> <p>The laws of Laos do not provide for any “<i>de minimis</i>” exception to the prohibitions on “bribery” or for any exception for gifts or “facilitation payments” (i.e., payments made to government officials to perform or expedite the performance of their normal nondiscretionary duties). There is no basis in law which would, expressly or specifically, exempt such payments or gifts from being covered by the definition of a “bribe” as contemplated by the Anti-Corruption Law or the Penal Law.</p>
<p>Current Status</p>	<p>Enforcement Body</p>	<p>The Law on State Inspection (No. 41/NA, November 16, 2017) details the authority of the Government Inspection Authority (“Inspection Authority”). The Inspection Authority is a state inspection organization with a status equal to a Ministry within the Government. Its role is to lead efforts to inspect, prevent, and combat corruption.</p> <p>Under the Law on the Office of the Public Prosecutor (No. 21/NA, May 10, 2017), the Office of the Public Prosecutor is responsible for the prosecution of violations of the Penal Law.</p> <p>Under Article 8 of the Law on Anti-Money Laundering and Counter-Financing of Terrorism (No. 50/NA, July 21, 2014) (“AML and CFT Law”) corruption and bribery are predicate offenses. Therefore, the AML and CFT Law applies when the recipient of a bribe uses the proceeds in contravention of the provisions of the law. The AML and CFT Law also provides for an Anti-Money Laundering Information Office (“AMLIO”), which is the agency to which reporting entities are meant to report information or</p>

		<p>suspicious activities relating to money laundering and the financing of terrorism. The AMLIO’s additional tasks are to collect and analyze data, disseminate information, and coordinate with relevant parties, both domestic and international, as necessary to combat terrorism and prevent money laundering.</p> <p>Further, the Anti-Corruption Law provides for a Counter-Corruption Organization that is responsible for preventing and countering corruption within the country by assigning the implementation of this objective to the State Inspection Authorities.</p>
	Issues in Enforcement	<ul style="list-style-type: none"> • There is no data available on the number or details of corruption cases dealt with by the judicial system each year. Court cases in Laos are not made publicly available. • In practice, the relevant authorities may respond to corruption cases through the use of administrative mechanisms such as the demotion of personnel, rather than by prosecuting violators through the judicial system, although there are no official public records that reveal when or how frequently this practice is observed.
	Recent Movement	<p>According to a June 10, 2019, newspaper article in the <i>Vientiane Times</i>, as a result of investigations undertaken by the Government Inspection Authority 1,285 people have been found to be involved in corrupt practices, resulting in a total of 999 billion LAK (approximately USD 115 million) in losses to the Government of Laos (“1,285 People Involved in Corruption with 999 Billion Kip Lost,” Issue No. 133). According to the article, of the 1,285 persons convicted, 970 were state employees and 315 were business operators. 849 state officials have thus far been disciplined in one of the following forms: transfer to another post, loss of status as a government official, or demotion.</p> <p>However, details of corruption cases in Laos are not generally made public.</p>
Participation in International Anti-Corruption Conventions	OECD Convention	No
	UNCAC	<p>Signed on December 10, 2003</p> <p>Ratified on September 25, 2009</p>
Last Updated		June 11, 2019

Region		Asia Pacific
Country		Malaysia
2018 CPI	Rank	61/180
	Score	47
The Law on Bribery	Bribery of Domestic Officials	<p>The primary anti-corruption law is the Malaysian Anti-Corruption Commission Act 2009 (“MACC Act”) which came into effect on January 1, 2009. The MACC Act is the successor to the Anti-Corruption Act 1997 and is designed to bring Malaysia’s anti-corruption framework in line with its international obligations under the United Nations Convention Against Corruption.</p> <p><u>Offering a bribe:</u> It is a crime for a person to offer to any officer of any public body any gratification as an inducement or a reward for the officer to vote or refrain from voting with respect to any public body decision-making, to perform or abstain from performing any official act, to assist in procuring or preventing the grant of any contract for the benefit of any person, or to show any favor or disfavor in his/her official capacity, notwithstanding that the officer did not have the power, right, or opportunity to perform or accepted the gratification without intending to perform (MACC Act sec. 21).</p> <p><u>Receiving a bribe:</u> It is a crime for an officer of any public body to solicit or accept any gratification as an inducement or reward to perform any of the aforementioned activities (MACC Act sec. 21).</p> <p>Despite the general application of the MACC Act, certain existing anti-corruption laws that are contained in other laws, such as the Penal Code (the “PC”), Customs Act 1967 and Election Offences Act 1954, remain in force and cover additional domestic bribery offenses.</p> <p><u>Corporate liability:</u> In April 2018, the Malaysian Anti-Corruption Commission (Amendment) Act 2018 (“Amendment Act”) was passed which, among others: (i) introduces a statutory corporate liability offense element to the MACC Act; and (ii) provides expressly that any documents obtained by the Malaysian Anti-Corruption Commission under the MACC Act are admissible in evidence in any proceedings under the MACC Act, notwithstanding anything to the contrary in any other written law.</p> <p>Amendment (ii) has already come into force as of October 1, 2018, whereas based on public statements made, amendment (i) is expected to come into force in mid-2020. Further details of amendment (ii) are set out in the sections below.</p>
	Bribery of Foreign Officials	<p><u>Offering a bribe:</u> It is a crime for a person to give, offer, or promise gratification by himself/herself or in conjunction with any other person as an inducement or reward to a foreign public official to have the official use his/her position to influence any act or decision of the foreign country or public international organization for which the official performs any official duties, to perform or refrain from performing his/her official duties, or to assist in procuring or preventing the granting of any contract for the benefit of any person notwithstanding that the officer did not have the power, right, or opportunity to perform or accepted the gratification without intending to perform or that the inducement or reward was not related to the scope of his official duties (MACC Act sec. 22).</p> <p><u>Receiving a bribe:</u> It is a crime for a foreign public official to solicit, accept, or agree to accept or attempt to obtain any gratification whether for the benefit of that foreign public official or of another person, in exchange for any of the aforementioned activities (MACC Act sec. 22).</p> <p>Citation of conventional practice is not recognized as a defense.</p> <p>Both the offeror and the recipient of the bribe may be subject to up to 20 years’ imprisonment and a fine which is the higher of five times the value of the gratification or RM10,000, whichever is the higher (MACC Act sec.24).</p>
	Commercial Bribery	The MACC Act prohibits both public and commercial bribery (MACC Act sec. 16)

Definitions	Government Employee	<p>Domestic public officials generally include members, officers, employees, and servants of a public body, such as the administration, the parliament, the state legislative assembly, the federal courts, other parts of the federal government, the state government, local authorities, government majority-owned corporations, registered societies and trade unions, and persons who receive remuneration from public funds.</p> <p>Foreign public officials generally include persons who hold legislative, executive, judicial, or administrative offices of a foreign country, whether appointed or elected; exercise a public function in a foreign state; or act on behalf of a public international organization.</p>
	Gratification (Gifts/ Entertainments/ etc.)	<p>The definition of “gratification” is expansive, covering any money, donation, gift, loan, fee, reward, valuable security, property or interest <i>inter alia</i> in property being property of any description whether movable or immovable, financial benefit, or any other similar advantage as well as any other service or favor of any kind or any offer, undertaking, or promise of such gratifications.</p> <p>The MACC Act does not provide defenses for <i>de minimis</i> payments, but the Guidelines for Giving and Receiving Gifts in the Public Service issued by the Public Service Department in 1998 detail limited circumstances in which gifts may be allowed and the applicable approval procedures that must be followed.</p>
Current Status	Enforcement Body	<p>The MACC is authorized to investigate bribery offenses under both the MACC Act and the PC. Other institutions relevant to the fight against corruption include the Attorney General’s Chambers (“AGC”), the Royal Malaysia Police, the Royal Customs and Excise Department, the Financial Intelligence Unit of the Central Bank of Malaysia, the Ministry of Foreign Affairs, the Public Service Department, and the Judiciary.</p> <p>With the consent of the Attorney General who acts as the Public Prosecutor, the MACC may prosecute bribery offenses.</p> <p>In early June 2019, Latheefa Koya was appointed as chair of the MACC by the current Prime Minister, Tun Dr. Mahathir Mohamad. Latheefa Koya was formerly a human rights lawyer and an active politician prior to the 2018 general elections, although she resigned from all party posts prior to her appointment as chair of the MACC. This is the first instance that a person of political background and a MACC “outsider” has been appointed chairperson of the MACC.</p>
	Issues in Enforcement	<p>The MACC appears to have become more active over the past year. The MACC’s 2018 Annual Statistics on Arrest reported that 894 persons were arrested for corruption in 2018. By contrast, 660 arrests were made in the first five months of 2019.</p>
	Recent Movement	<p><u>New Provision on Corporate Liability</u>: The Malaysian Anti-Corruption Commission (Amendment) Bill was passed in April 2018, amending the MACC Act by introducing a new section on corporate liability. The new section 17A provides that a commercial organization commits an offense if a person associated with the commercial organization corruptly gives or offers any gratification in order to obtain/retain business or to obtain/retain an advantage for the commercial organization. The term “person associated with” includes a director, partner, or an employee of the commercial organization as well as a person who performs services for or on behalf of the organization. A “commercial organization” means a company or partnership that is either incorporated in Malaysia or carries on business or part of its business in Malaysia. Conviction attracts a fine of not less than 10 times the value of the gratification or RM 1 million (whichever is higher), or imprisonment for up to 20 years, or both.</p> <p>Additionally, the director, controller, officer or partner, or those concerned in the management of the commercial organization’s affairs are deemed to have committed the same offense unless they prove that the offense was committed without their consent and they have exercised due diligence to prevent the offense.</p> <p>While the new section imposes a strict liability on commercial organizations, it also provides a defense whereby the commercial organization must prove that it had in place adequate procedures to prevent persons associated with the commercial organization from undertaking the corrupt acts. To this end, the Guidelines on Adequate Procedures were</p>

published by the Prime Minister's Department in December 2018, to provide guidance on the adequate procedures to be implemented by commercial organizations.

The New Government's Anti-Corruption Agenda: The 14th Malaysian general election on May 9, 2018, resulted in the election of a new government. Since then, there have been various steps taken by the government to improve corporate governance within the executive branch of government and promote its anti-corruption agenda, including:

- The Prime Minister's office established the Special Cabinet Committee on Anti-Corruption ("JKKMAR"). It was reported by the Prime Minister's office in March 2019 that the JKKMAR had decided on a formation of a special court on corruption, whose judges were to be appointed directly by the Yang di-Pertuan Agong, the King of Malaysia;
- Malaysia has established a Governance, Integrity and Anti-Corruption Centre ("GIACC"), which formulated a policy paper called the National Anti-Corruption Plan to set practical goals up to 2023 based on initiatives to be taken by both public and private agencies to address corruption, integrity, and governance issues.
- It was reported earlier this year that the GIACC has been tasked with the drafting of a Political Funding Bill to monitor and set rules for the funding of political parties, as well as an Ombudsman Bill to improve the management of complaints to public authorities in the country. Both bills are expected to be tabled for debate within the next two years.
- The government has announced that it is reviewing internal guidelines and policies to improve internal governance and transparency. Among the changes reportedly in the works are that all Ministers, including the Prime Minister and Deputy Prime Minister, will have to declare their assets to the MACC.

The 1MDB Scandal:

- The country's former prime minister, Najib Razak, was accused of receiving around \$700 million (RM 2.67 billion) from the 1MDB fund, a state investment fund set up by him to promote development in the country. Following the election of the new government, investigations into these allegations were reopened.
- Najib Razak was subsequently barred from leaving the country, and properties linked to him were raided. The Malaysian police seized up to \$270 million worth of cash and luxury goods, reported as the biggest seizure of assets in Malaysian history. Najib Razak was also arrested by the MACC in July 2018 and now faces multiple charges including abuse of power, breach of trust, and money laundering linked to the 1MDB scandal.
- It was also reported that in December 2018, Najib Razak was once again arrested by the MACC for tampering with the final 1MDB audit report. The criminal trial for Najib Razak in relation to the 1MDB case was to take place in August 2019.

Other Enforcement Actions by the MACC Reported by the Press:

- 31 individuals including 23 Road Transport Department ("RTD") enforcement personnel were arrested by the MACC on April 16, 2019, for their alleged involvement in corruption by protecting lorry drivers who committed various traffic offenses, particularly driving overweight lorries, in various parts of the state of Penang. The RTD enforcement personnel were believed to have accepted monthly payments of between RM 10,000 and RM 32,000 as inducement not to take action against the lorry drivers and had also leaked information on RTD's operations. It was also reported that between April 9 and April 22, 2019, 60 state RTD enforcement officers were arrested. Eight RTD officials and one former Land Public Transport Commission northern region assistant enforcement chief were charged at the Special Corruption Court in Penang with corruption on May 28, 2019.
- Five individuals including a senior officer of the Companies Commission of Malaysia ("SSM") were remanded by the MACC between March 19 and March 23, 2019, in relation to a RM 30 million corruption probe involving the SSM. Initial investigations revealed that the five had conspired to illegally obtain software certificate services

		<p>without abiding by the regulations of the Malaysian Communications and Multimedia Commission.</p> <ul style="list-style-type: none"> Twelve people, including seven officers attached with a government department in the state of Pahang, were detained by the MACC on January 14, 2019, in a raid as part of its investigation into allegations of abuse of power and corruption involving water supply projects offered by Pengurusan Air Pahang Berhad worth RM 23 million. It was believed that that projects under the agency’s supervision had been monopolized and controlled by several contractors, who were proxies for those inside the agency. The MACC deputy chief commissioner (operations) revealed that a team of investigators is in the process of collecting evidence as well as conducting further probes into the case.
Participation in International Anti-Corruption Conventions	OECD Convention	No (observer status)
	UNCAC	Signed December 9, 2003 Ratified September 24, 2008
Last Updated		June 18, 2019

Region		Asia Pacific
Country		Myanmar
2018 CPI	Rank	132/180
	Rank	132/180
The Law on Bribery	Bribery of Domestic Officials	<p>Anti-corruption offenses are primarily covered in the Anti-Corruption Law 23/2013 and the Myanmar Penal Code. In general, both the facilitator and the receiver of the bribe may be subject to criminal penalties.</p> <p><u>Receipt of a bribe:</u> It is a crime for a public servant, or for a person expecting to be a public servant, to demand, accept or agree to accept, or attempt to obtain from any person, for himself/herself or for any other person, any gratification (other than legal remuneration) for the official’s performance or omission to perform his/her duty, regardless of whether the act or omission is carried out. The crime is punishable by up to three years’ imprisonment, a fine, or both (Penal Code sec. 161). Under the Anti-Corruption Law, a Political Post Holder found guilty of corruption may be imprisoned for up to 15 years and/or fined; a Person in Authority found guilty of corruption may be imprisoned for up to 10 years and/or fined; any other person found guilty of corruption may be imprisoned for up to seven years and/or fined (sec. 55-57).</p> <p><u>Facilitating corruption:</u> It is a crime for any person to demand, accept, or agree to accept any gratification as a motive or reward for inducing, by corrupt or illegal means, any public servant’s performance, omission to perform, or biased performance of his/her duty, or to render or attempt to render any service or disservice to any public official. The crime is punishable by up to three years’ imprisonment, a fine, or both (Penal Code sec. 162).</p> <ul style="list-style-type: none"> • “Person” in this section includes any company or association, or body of persons, whether or not incorporated (Penal Code sec. 11). • It is a crime for any person to demand, accept, or agree to accept any gratification as a motive or reward for inducing any public servant’s performance, omission, or biased performance of his/her duty, by the exercise of personal influence on any public official. The crime is punishable by up to one year of imprisonment, a fine, or both (Penal Code sec. 163). • It is a crime for a public servant to abet the above-mentioned crimes; it is punishable by up to three years’ imprisonment, a fine, or both (Penal Code sec. 164). <p>Under the Anti-Corruption Law, any person who attempts, conspires, organizes, or administers the commission of any offense under the law will be liable for such punishment as directed under the law (Anti-Corruption Law sec. 63). While there is no specific language regarding the punishment for facilitation, the definition provided may be construed to include such activities under the broad definition of “bribery.”</p> <p><u>Presumption of corruption:</u> It is a crime for a public servant to demand, accept, or agree to accept, for himself/herself or any other person, any valuable object without consideration, or for consideration he/she knows to be inadequate, from any person he/she knows to have been, to be, or likely to be involved in any proceeding or business transacted or about to be transacted by, or in connection with, such public servant; it is punishable by up to two years’ imprisonment, a fine, or both (Penal Code sec. 165).</p> <p>Under the Anti-Corruption Law, the burden of proof rests on the person being investigated; the person must prove how he/she has obtained money or property which is the subject of investigation (sec. 64).</p>

	<p>Bribery of Foreign Officials</p>	<p>A “foreign public servant” is defined in the Anti-Corruption Law as “the official of the legislative, executive and judicial appointed or elected by any foreign country or a person who works in the Board, Commission, Corporation or other organization formed to carry out a function of a foreign country and the person is conferred with power by the Public International Organization to serve the function on behalf of it” (Anti-Corruption Law sec. 3(g)).</p> <p>Under the Anti-Corruption Law, a foreign public servant is included in the definition of “an authoritative person,” and as such, the bribery of foreign public servants is punishable with imprisonment for a term not exceeding 10 years and a fine (Anti-Corruption Law sec.56).</p>
	<p>Commercial Bribery</p>	<p>Before March 30, 2015, Myanmar did not criminalize bribery in the private sector.</p> <p>On March 30, 2015, the Union Government issued Notification 24/2015 and announced that bribery and corruption are included in the offenses under the Money Laundering Law (Law No.11 of 2014). Since money laundering offenses relate to commercial matters in the private sector, Myanmar now does criminalize bribery in the private sector.</p> <p>The 4th amendment of the Anti-Corruption Law, enacted on June 21, 2018, amended the definition of “corruption” under which any person, not only an authoritative person, is prohibited from corruption. As such, bribery in the private sector is now punishable under the Anti-Corruption Law.</p> <p>On October 19, 2018, in accordance with the Anti-Corruption Law, the Anti-Corruption Commission (“ACC”) issued Notification 14/2018 relating to the fundamental principles for private businesses to develop a strong code of ethics and establish appropriate internal control measures to prevent corruption. The fundamental principles adopted by the ACC are:</p> <ul style="list-style-type: none"> • Strong, effective policy and support from top-level management to fight corruption; • Risk assessment to effectively identify and evaluate exposure to corruption; • Enhanced and detailed measures for high-risk and vulnerable areas; • Application of anti-corruption measures to business partners; • Accurate books and accounting records; • Human resource management policies complementary to anti-corruption measures; • Establishment of trustworthy reporting mechanisms to report suspected incidents of corrupt behavior; and • Periodic review and evaluation of anti-corruption prevention measures. <p>On August 3, 2018, the Department of Investment and Corporate Administration (“DICA”) issued an announcement concerning the Anti-Corruption Code of Ethics for Companies and Body Corporates which prohibits the companies and body corporates established in Myanmar under the Myanmar Companies Law from engaging in corruption-related activities. Furthermore, on January 16, 2019, DICA issued an announcement on fundamental principles of the Anti-Corruption Code of Ethics for Companies and Body Corporates, under which the companies and body corporates need to follow the fundamental principles outlined under ACC’s Notification 14/2018.</p>
<p>Definitions</p>	<p>Government Employee</p>	<p>The Anti-Corruption Law distinguishes between a Political Post Holder, a High-Ranking Official, a Person in Authority, a Public Officer, and a Public Servant:</p> <ul style="list-style-type: none"> • “Political Post Holder” means a person who has been announced by notification by the commission, with the approval of Pyidaungsu Hluttaw (Anti-Corruption Law sec. 3(h)). • “High-Ranking Official” means a person who is holding the post of director general and managing director of a government department or who has the same level post, or a member of a board of directors, a board member, committee member, or a person who has the same rank at a government-owned or government and private joint venture company. The term also includes a person who is temporarily holding one of the above-mentioned posts (Anti-Corruption Law sec. 3(i)). • “Person in Authority” means one who has the authority by means of his/her post or authority of management such as a public servant, external public servant, one who

		<p>currently holds a political post, higher official, or one who has management authority or an agent from a public-related organization (Anti-Corruption Law sec. 3(j)).</p> <ul style="list-style-type: none"> • “Public Official” means any permanent or temporary employee working in any position of the legislature, administration, and judiciary or working in a public department, organization, or specified as a public servant under any existing law, whether or not he/she is appointed or elected and whether or not he/she receives salary and allowance (Anti-Corruption Law sec. 3(f)). • “Public Servant” is defined in the Penal Code (sec. 21) and means any of the following: <ul style="list-style-type: none"> ○ A covenanted servant of the government; ○ A commissioned officer in the army, navy, or air forces of the state; ○ A judge or an officer of a court of justice; ○ A juror, assessor, or member of a village committee assisting a court or public servant; ○ An arbitrator or any other person to whom any cause or matter has been referred for decision or report by a court of justice or any other competent public authority; ○ A person who holds any office empowering him/her to place or keep any person in confinement; ○ An officer of government whose duty is to prevent offenses, give information on offenses, bring offenders to justice, or protect public health, safety, or convenience; ○ An officer in the service of the government or receiving remuneration from the government for the performance of any public duty; ○ A member of the government; ○ An officer whose duty is to take, receive, keep, or expand property; to make any survey or assessment, or to levy any tax for any secular common purpose of any village, town, or district; or to make, authenticate, or keep any document to ascertain the rights of the people of any village, town, or district; or ○ A person who holds any office empowering him/her to prepare, publish, maintain, or revise an electoral roll or to conduct an election or part of an election. • “Government” means person(s) authorized to administer the executive government in any part of Myanmar (Penal Code sec. 17).
	<p>Gratification (Gifts/ Entertainments/ etc.)</p>	<p>“Gratification” is defined broadly and is not limited to pecuniary gratification or gratification estimable in monetary terms (Penal Code sec. 161). The Anti-Corruption Law provides that gratification may include “pecuniary gratification, property, gifts, service fees, entertainment or any other unlawful benefit” (Anti-Corruption Law, sec. 3(b)).</p> <p>“Legal Remuneration” is not restricted to remuneration which a public servant can lawfully demand; it includes all remuneration which he/she is permitted by the government to accept (Penal Code sec. 161).</p>
<p>Current Status</p>	<p>Enforcement Body</p>	<p>Much of the new Anti-Corruption Law is dedicated to the creation and regulation of the Office of the Commission which is empowered under the Law to accept, scrutinize, and investigate complaints, confiscate money and property, issue prohibitive orders, and prosecute offenses under the Law (Anti-Corruption Law, sec. 16 and 17). The Commission may form a Preliminary Scrutiny Body (sec. 19 and 20) and an Investigation Body (sec. 21-35) to accomplish these tasks.</p> <p>The 15-member ACC was formed by the President on February 25, 2014. On November 23, 2017, the ACC was reformed with 12 members by the President’s Office Order No. 30/2017.</p>

	Issues in Enforcement	<p>The laws seem to have differing liabilities, and translations of new laws are not always accurate. The Anti-Corruption Rules have been passed by the Anti-Corruption Commission, with the approval of the Union Government, on July 10, 2015, setting forth the duties and functions of the Preliminary Scrutiny Body and Investigation Body and the procedures for investigations.</p> <p>In recent years, the ACC had taken action against many public servants who abused their authority and committed corruption. However, to-date the ACC has not taken action against bribery incidents in the private sector under the law.</p>
	Recent Movement	<p>On November 15, 2013, Myanmar signed a Memorandum of Understanding to join the South East Asia Parties Against Corruption (“SEA-PAC”). SEA-PAC, which includes 10 member countries and international organizations, works to explore and implement measures to prevent corruption in Southeast Asia.</p> <p>On March 30, 2015, the Union Government issued Notification 24/2015 and announced that bribery and corruption are included in the offenses under the Money Laundering Law (Law No. 11 of 2014).</p> <p>The Ministry of Home Affairs promulgated the Money Laundering Rules on September 11, 2015.</p> <p>The Union Minister of President office issued guidelines for the acceptance of gifts (“Guidelines”) on April 1, 2016, to government officials to eliminate bribery and corruption in Myanmar. The Guidelines ban government officials from accepting gifts from anyone that would seek to benefit from the government’s position or that is doing business with any enterprise under the supervision of the government officials. In particular, the Guidelines prohibit public officials from accepting any gift worth more than 25,000 kyats from a person or organization, which has been given to them by virtue of their posts. Gifts include air tickets, free accommodations, provisions for meals, entertainment, and golf member fees.</p> <p><u>The Anti-Corruption Commission:</u></p> <ul style="list-style-type: none"> • The Anti-Corruption Law was enacted on August 7, 2013, and came into effect on September 17, 2013. It was amended four times, and the 4th amendment was enacted on June 21, 2018. The Anti-Corruption Commission was formed by the President on February 25, 2014, and was reformed by the President on November 23, 2017. • The ACC issued Notification 14/2018 relating to the fundamental principles for private businesses to develop a strong code of ethics and establish appropriate internal control measures to prevent corruption on October 19, 2018. • In 2018, the ACC signed MOU with Thailand, the Lao PDR, and Vietnam for coordination on anti-corruption activities. The ACC held the Workshop on Vulnerability to Corruption Assessment, in coordination with UNODC, on January 18, 2019, and the Consultation Workshop on Whistle-Blower Protection Law (1st Draft) on May 17, 2019, to enact the law under Article 33 of UNCAC.
Participation in International Anti-Corruption Conventions	OECD Convention	No
	UNCAC	Signed December 2, 2005 Ratified December 20, 2012
Last Updated		June 13, 2019

Region		Asia Pacific
Country		Philippines
2018 CPI	Rank	9/180
	Score	36
The Law on Bribery	Bribery of Domestic Officials	<p>In the Philippines, the Revised Penal Code (“RPC”) defines and provides penalties for bribery and corruption of domestic public officials. Heavier penalties and fines were then imposed upon certain crimes with the enactment of Republic Act No. 10951 (“RA 10951”) last 2017.</p> <p>In addition, the Anti-Graft and Corrupt Practices Act, Republic Act No. 3019 (“RA 3019”), sets forth a list of specific corrupt practices that also extend to private individuals. Prohibited acts under RA 3019 include: influence peddling, benefiting in connection with a government contract, benefiting from an exercise of authority, obtaining employment from a transacting enterprise, causing undue damages in the exercise of administrative and judicial functions, neglecting to take action in order to obtain private gain, executing a grossly disadvantageous transaction, obtaining an interest in a transacting enterprise, obtaining an interest in a matter before one’s agency for approval, approving unwarranted benefits or permits, and breach of confidence.</p> <p>Other anti-corruption laws in the Philippines include:</p> <ul style="list-style-type: none"> • The Anti-Plunder Act (“RA 7080”), which defines the crime of “plunder” and sets forth penalties for those public officials who accumulate ill-gotten gains in an aggregate amount of PHP 50 million. • The Code of Conduct and Ethical Standards for Public Officials and Employees (“RA 6713”), which includes a prohibition on soliciting or accepting gifts, gratuities, loans, favors, or entertainment in the course of or in connection with their duties. • The Act Declaring Forfeiture of Ill-Gotten Wealth of Public Officers and Employees (“RA 1379”), which states that if property is obtained during a public official’s incumbency and is manifestly disproportionate to the official’s salary, other lawful income, and lawfully acquired property, then there is a <i>prima facie</i> presumption that such property has been unlawfully acquired. • The Act of Punishing Receiving and Giving of Gifts of Public Officers and Employees, (“Presidential Decree No. 46”), which prohibits public officials from receiving gifts and private individuals from offering gifts and hosting parties or entertainment to honor a public official. • The Anti-Red Tape Act of 2007 (“RA 9485”), which seeks to improve efficiency in the delivery of government services to the public by reducing bureaucratic red tape, preventing graft, and corruption, and prescribing penal sanctions against “fixers,” whether working for the government or not, who facilitate the speedy completion of transactions for pecuniary gain or any other advantage or consideration. • The Anti-Money Laundering Act of 2001 (“RA 9160, as amended”), which imposes criminal penalties on persons, including government officers, involved in money laundering activities proscribed as “unlawful activities” under the Act, which include the commission of acts of money laundering in relation to corrupt activities. • The Ease of Doing Business Act (“RA 11032”), which seeks to shorten the number of days in the processing permits and licenses for all business-related transactions. RA 11032 includes stricter rules like the two-strike policy for government officials who fail to issue permits in the given period. This expressly amended several provisions of RA 9485. • The Government Procurement Reform Act (“RA 9184”), which requires transparency in the procurement process of government contracts and a system of accountability for public officials directly or indirectly involved. • The Presidential Anti-Corruption Commission (“Executive Order No. 43”), which was created for the sole purpose of investigating and conducting administrative hearings on the allegations of excessive lifestyles and graft and corruption activities of public officials, including those outside the Executive Department.

		<ul style="list-style-type: none"> The Expansion of the Powers of the Presidential Anti-Corruption Commission (the “Executive Order No. 73”), which includes investigating public officials for violations of the Anti-Red Tape Act, and recommending the filing appropriate criminal charges. It also allows the President to participate in the investigations and to assume jurisdiction at any stage of the proceeding. <p><u>Corporate liability</u>: Only natural persons are subject to criminal liability. However, where expressly provided by law, a corporation (or any other juridical person) may be subject to fines and even dissolution or revocation of license.</p> <p><u>International law</u>: Since 2006, the Philippines is a State Party to the United Nations Convention Against Corruption (“UNCAC”), which requires the implementation of preventive and punitive anti-corruption measures. In response to its obligation under the convention, the country has created the Integrity Management Program (“IMP”), pursuant to the Executive Order No. 176.</p>
	<p>Bribery of Foreign Officials</p>	<p>The Philippines does not currently have any domestic laws that prohibit the bribery of foreign officials. However, under the Implementing Rules and Regulations of RA 9160 (“IRR”), covered institutions are mandated to take measures to determine whether a customer or beneficial owner is a “Politically Exposed Person” and to apply enhanced due diligence when engaged in business relationships with such persons.</p>
	<p>Commercial Bribery</p>	<p>The Philippines recently passed a law titled “An Act Providing for the Revised Corporation Code of the Philippines or Republic Act No. 11232” (“RA 11232), which provides for fines for graft and corruption in the private sector. RA 11232 expressly penalizes corporations and officers alike for graft and corrupt practices. Among the prohibited acts are:</p> <ul style="list-style-type: none"> Corporations acting as intermediaries for graft and corrupt practices; Tolerating graft and corrupt practices; and Retaliation against whistleblowers. <p>In addition, bribery where private individuals conspire with public officers are criminalized under the RPC and other special laws.</p>
<p>Definitions</p>	<p>Government Employee</p>	<p>The definition of “public official” varies under the anti-corruption laws.</p> <p>Article 203 of the RPC defines “public official” as “any person who, by direct provision of the law, popular election or appointment by competent authority, shall take part in the performance of public functions in the government of the Philippine Islands, or shall perform in said government or in any of its branches public duties as an employee, agent or subordinate official, of any rank or class.”</p> <p>Section 2(b) of RA 3019 defines “public official,” when used in section 2(a) therein, as elected and appointed officials and employees, permanent or temporary, whether classified or unclassified, who receive compensation, even if the compensation is nominal, from the government.</p> <p>Section 3(b) of RA 6713 defines “public official,” when used in section 3(a) therein, to include elected and appointed officials and employees, permanent or temporary, whether in career or non-career service, including military and police personnel, whether or not they receive compensation of any amount.</p> <p>There is no definition in Philippine law for “foreign public official,” except for the definition found in Article 2(b) of the UNCAC.</p>
	<p>Gratification (Gifts/ Entertainments/ etc.)</p>	<p>“Gratification” is expansively defined in the relevant anti-corruption laws and includes entertainment, loans, favors, and services.</p> <p>The only exception is contained in Section 14 of RA 3019, which expressly states that unsolicited gifts of nominal or insignificant value which are given as an ordinary token of gratitude or friendship in accordance with local custom or usage are exempt from the Act.</p> <p>In <i>Mabini v. Raga</i> (A.M. No. P-06-2150, June 21, 2006), the Supreme Court considered a cash gift of PHP 1,500 shared by 12 employees nominal.</p>

		There is no prescribed pecuniary floor for either the RPC or RA 3019 to apply, and courts tend to interpret the definitions under the anti-corruption laws strictly.
Current Status	Enforcement Body	<p>The authorities in charge of anti-corruption efforts are:</p> <ul style="list-style-type: none"> • The Office of the Ombudsman, the Office of the Special Prosecutor, and the Department of Justice, which investigate and prosecute cases of corruption. • Sandiganbayan, a specialized court that handles anti-graft cases, or the Regional Trial Court, depending on the level of the public official involved, and the Supreme Court. • The Philippine National Police, through its Criminal Investigation and Detection Group, and the National Bureau of Investigation, through its Anti-Graft Section, which investigates charges of corruption. • The Presidential Anti-Graft Commission, which supports the President in regard to the government’s anti-corruption efforts and hears cases relating to Presidential appointees in the executive branch and corporations either owned or controlled by the government. • The Civil Service Commission, an independent constitutional body as the central personnel agency of the government, which is tasked to promote integrity, efficiency, and accountability in government service. It has jurisdiction over administrative cases, including administrative charges for graft and corruption, brought before it on appeal. • The Commission on Audit, another independent constitutional body, which has the power, authority, and duty to examine, audit, and settle all accounts pertaining to revenue, and use and expenditure of public funds and property, with the goal of preventing and disallowing irregular, unnecessary, excessive, extravagant, and unconscionable expenditures or uses of government funds and properties. • The Anti-Money Laundering Council, which is empowered to institute civil forfeiture proceedings, files complaints for the prosecution of money laundering offenses, initiates investigations of money laundering activities, and freezes any monetary instrument or property alleged to be the proceeds of any unlawful activity.
	Issues in Enforcement	<p>Clogged investigation and court dockets; delay in recovery of ill-gotten wealth; delay in the passage of important legislation (such as the Freedom of Information bill, which is currently an Executive Order and applicable only to the Executive Branch); a relatively low conviction rate of public officials being prosecuted for graft and corruption-related crimes; the unwillingness of witnesses to testify; stringent qualifications before one can be considered a state witness under the Witness Protection, Security and Benefit Act, Republic Act No. 6981; the use of graft and corruption charges as political tools; no unified definition of the term “public official,” which may cause confusion in the implementation of the different laws; lack of interagency resources such as financial assistance and/or human resources; lack of interagency coordination and cooperation; lack of information sharing between agencies; and the culture in the Philippines of gift-giving and moral indebtedness.</p>
	Recent Movement	<p>The administration of President Rodrigo Duterte has been aggressive in the eradication of crime, corruption, and the use of illegal drugs.</p> <ul style="list-style-type: none"> • Since its creation on October 4, 2017, the Presidential Anti-Corruption Commission (“Commission”) has submitted its recommendations, including the uncovering of a jewelry smuggling syndicate at the Ninoy Aquino International Airport Terminal 3. As of March 2018, the Commission has reviewed 327 cases of corruption. • On May 11, 2018, the Supreme Court, through a <i>quo warranto</i> proceeding, ousted Chief Justice Maria Lourdes Sereno. Prior to this proceeding, Sereno faced an impeachment complaint for her alleged failure to declare in her Statement of Assets, Liabilities, and Net Worth her professional fee in the amount of PHP 37 million. Allegedly, this was her fee as a private lawyer when she represented the government in the Philippine International Air Terminals Co. Inc. case. • The Philippine National Police (“PNP”) implemented an institution-wide internal cleansing program. In July 2018, the PNP filed 498 administrative cases against erring PNP personnel involved in illegal drugs. Aside from the intensified anti-illegal drug operations, the Philippine Drug Enforcement Agency (“PDEA”) zeroed in on the drug

		<p>distribution channels managed by local chief executives, government officials, and law enforcement personnel. Among the 6,552 drug personalities listed by PDEA as of May 31, 2018, 335 were elected officials.</p> <ul style="list-style-type: none"> • In August 2018, President Duterte fired all board members of the Nayong Pilipino Foundation (“NPF”) for green-lighting a lease deal “grossly disadvantageous” to the government. It was alleged that the NPF Board’s approval of a contract allowing a Chinese company to lease land would lead the government to lose at least PHP 517 million a year. Because the contract is for 50 years, this would lead to losses of up to PHP 25 billion. • On August 13, 2018, President Duterte ordered the relief and court-martial proceedings against at least 20 top military officials of the Armed Forces of the Philippines Medical Center over alleged corruption activities. The high-ranking officials and employees of the medical institution undertook anomalous purchases of equipment and engaged in fraudulent transactions involving hundreds of millions of pesos. • On December 7, 2018, the Sandiganbayan acquitted Senator Ramon “Bong” Revilla for plunder. The anti-graft court also ordered the return of PHP 124.5 million to the Philippine Treasury. • For 2018, the Ombudsman filed 698 Informations against high-ranking officials and their accomplice with the Sandiganbayan. Violation of the Anti-Graft and Corrupt Practices Act had the highest number of cases filed in 2018 at 341 cases, followed by malversation at 144 and falsification of public documents at 115. This was a drop of 71% from 2017, when the Ombudsman filed 2,513 cases. • In March 2019, President Duterte fired retired Marine general Alexander Balutan as general manager of the Philippine Charity Sweepstakes Office (“PCSO”) due to serious allegations of corruption. Balutan’s firing comes a day after he said that the PCSO saw a drop in lottery sales due to smaller jackpot amounts and higher ticket prices. He said the February 2019 revenue from lotto plunged by 39.19%, registering only PHP 1.59 billion in sales compared to the same period last year with PHP 2.61 billion. • In March 2019, President Duterte signed a law which abolished the Road Board. The Road Board is the collegial body that manages funds from motor vehicle users’ charge or road users’ tax. The Commission on Audit earlier found that the agency misappropriated PHP 90.7 billion worth of funds from road users’ tax collections. In 2018, congressmen and district engineers requested PHP 1.958 billion worth of projects under the Road Board, but the money was not released to them. • In June 2019, President Duterte directed the management of Philippine Health Insurance Corporation to institute criminal actions against their officials and employees, who are allegedly allowed payments made to a dialysis center for kidney treatments of “ghost patients.” • In June 2019, Harold Clavite, the director general of the Philippine Information Agency, was under investigation for alleged corruption regarding the splitting of contract for the purchase of Asean Komiks, irregularities in the production of information materials for the airing of the government television program titled “Like Pinas” and for the Employees’ Compensation Program, and for the misuse of funds for hotel accommodations.
<p>Participation in International Anti-Corruption Conventions</p>	<p>OECD Convention</p>	<p>OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters Signed September 26, 2014 Not yet ratified</p>
	<p>UNCAC</p>	<p>Signed December 9, 2003 Ratified November 8, 2006 Entered into force December 8, 2006</p>
<p>Last Updated</p>		<p>June 14, 2019</p>

Region		Asia Pacific
Country		Singapore
2018 CPI	Rank	3/180
	Score	85
The Law on Bribery	Bribery of Domestic Officials	<p>Anti-corruption provisions are included in the Prevention of Corruption Act (Cap 241, 1993 Rev Ed) (“PCA”) and the Penal Code (Cap 224, 2008 Rev Ed) (collectively, “Anti-Corruption Laws”) and cover both the offeror and the recipient of the bribe.</p> <p><u>Prohibitions under the PCA</u></p> <p>The PCA includes general anti-corruption provisions and provisions that prohibit corruption in specific situations.</p> <p>The general anti-corruption provisions of the PCA, Sections 5 and 6, prohibit corrupt transactions by individuals and by agents.</p> <p>Under Section 5 of the PCA, it is an offense for a person who by himself/herself or in conjunction with another person:</p> <ul style="list-style-type: none"> • Corruptly solicits or receives, or agrees to receive for himself/herself, or any other person; or • Corruptly gives, promises, or offers to any person, whether for the benefit of that person or another person, • Any gratification as an inducement to or reward for, or otherwise on account of: <ul style="list-style-type: none"> ○ any person doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed; or ○ any member, officer or servant of a public body doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed, in which such public body is concerned. <p>Under Section 6 of the PCA, it is an offense for:</p> <ul style="list-style-type: none"> • An agent to corruptly accept or obtain any gratification as an inducement or reward for doing or forbearing to do any act in relation to his/her principal’s affairs or business; • A person to corruptly give or offer any gratification to an agent as an inducement or reward for doing or forbearing to do any act in relation to his/her principal’s affairs or business; or • A person to knowingly give to an agent a false or erroneous or defective statement, or an agent to knowingly use such statement, to deceive his/her principal. <p>The PCA also prohibits corruption in specific situations, including with respect to procuring withdrawal of tenders and bribing members of Parliament and members of a public body.</p> <p><u>Prohibitions under the Penal Code</u></p> <p>Chapter IX of the Penal Code prohibits:</p> <ul style="list-style-type: none"> • A public servant taking a gratification, other than legal remuneration, in respect of an official act; • A person taking a gratification in order to influence a public servant by corrupt or illegal means; • A person taking a gratification for exercising personal influence over a public servant; • Abetment by a public servant of the above offenses; and • A public servant obtaining anything of value, without consideration or with consideration the public servant knows to be inadequate, from a person concerned in any proceedings or business conducted by such public servant.

		<p><u>Other prohibitions:</u> The Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap. 65A, Rev Ed 2000) (the “CDSA”) may also apply to a person who knows or has reasonable grounds to believe that property is the result of a serious crime.</p> <p><u>Corporate liability:</u> Both individuals and companies can be held liable for offenses under the Anti-Corruption Laws. Additionally, in some circumstances companies can be held liable for the acts committed by employees or agents; however, directors and officers are not held strictly liable for the acts of the company.</p> <p><u>Penalties:</u> Under the PCA, the general anti-corruption provisions (which include the bribery of foreign public officials in Singapore and of foreign officials by Singapore citizens overseas) impose fines up to S\$100,000 and/or imprisonment of up to five years. The PCA imposes harsher penalties where offenses involve a government contract or a member of parliament or a public body, imposing fines up to S\$100,000 and/or imprisonment of up to seven years. The offender might also receive an additional penalty amounting to the sum or value of the gratification received.</p> <p>The PCA also provides for civil remedies for the restitution of property. Where any gratification has been given by any person to an agent, the principal can bring a private action to recover the amount or the money value of the gratification either from the agent or from the person who gave the gratification to the agent.</p> <p>The Penal Code’s anti-corruption provisions impose fines and custodial sentences of up to three years. Moreover, under the CDSA, the court has the power to confiscate the ill-gotten gains of certain convicted defendants.</p> <p><u>Mitigation:</u> While there is no formal mechanism in place for mitigation, those prosecuted under Anti-Corruption Laws may negotiate plea bargains. Other mitigating factors include whether the accused is (and his/her motivations for becoming) a whistleblower and whether the accused cooperates with the enforcement bodies and the prosecution.</p>
	<p>Bribery of Foreign Officials</p>	<p>There are no express restrictions in the Anti-Corruption Laws against bribery of foreign public officials. When read together, however, the Anti-Corruption Laws prohibit bribery of foreign public officials outside of Singapore.</p> <p>Sections 5 and 6 of the PCA contain general prohibitions against bribery of foreign public officials, and Section 37 of the PCA and Section 4 of the Penal Code create extraterritorial obligations for Singapore citizens and public servants, respectively.</p>
	<p>Commercial Bribery</p>	<p>The PCA’s general prohibitions against bribery extend to private commercial bribery.</p>
<p>Definitions</p>	<p>Government Employee</p>	<p>The definition of “government employees” varies under the Anti-Corruption Laws.</p> <p>The provisions in the PCA refer to a “member, officer or servant of a public body,” which encompasses a wide range of entities. “Public body” is defined to include any corporation, board, council, commission, or other body which has the power to act under, and for the purposes of any, written law relating to public health or to undertakings or public utility or otherwise to administer money levied or raised by rates or charges pursuant to any written law. This definition thus includes departments of the Singapore government and even, as held in <i>PP v. Tey Tsun Hang</i>, the National University of Singapore.</p> <p>The provisions of the Penal Code use the term “public servant,” which is defined to include an officer in the Singapore Armed Forces, a judge, an officer of a court of justice, an assessor assisting a court of justice or public service, an arbitrator, a person empowered by his/her office to keep any person in confinement, an officer of, or acting on behalf of, the Singapore government, and a member of the public service commission or the legal service commission.</p> <p>Employees of state-owned or state-controlled companies are not necessarily public officials or public servants, unless they otherwise fall within the definitions of the PCA and the Penal Code.</p> <p>The Singapore Interpretation Act defines “public officers” as holders of any office of emolument in the service of the Singapore government.</p>

	<p>Gratification (Gifts/ Entertainments/ etc.)</p>	<p>The PCA prohibits the provision and receipt of “gratification” with the requisite corrupt intent. “Gratification” is defined to include money or any gift, loan, fee, reward, commission, valuable security, or other property; any office, employment or contract; any payment, release from, or discharge of any obligation or other liability; and any other service, favor, or advantage. There exists a presumption of corruption where it is proven that Singapore public officials have paid or received gratification.</p> <p>Singapore courts have held that it is not a defense that a gratification was provided according to industry customs.</p>
<p>Current Status</p>	<p>Enforcement Body</p>	<p>The Corrupt Practices Investigation Bureau (“CPIB”) is the principal agency for investigating and preventing corruption in Singapore and reports directly to the Prime Minister. The CPIB derives its powers from the PCA and has the power to:</p> <ul style="list-style-type: none"> • Investigate the suspect, his/her family, agents, and financial and other records; • Require witnesses to submit to interviews; and • Investigate certain noncorruption-related offenses disclosed during the corruption investigation. <p>In June 2017, the CPIB opened a new Corruption Reporting and Heritage Centre where whistleblowers can report misconduct.</p> <p>The Commercial Affairs Department (“CAD”) is a department of the Singapore Police Force that investigates complex fraud, white-collar crime, money laundering, and terrorism financing.</p> <p>In November 2014, the Economic Crimes and Governance Division (“EGD”) of the Attorney-General’s Chambers was renamed the Financial and Technology Crime Division (“FTCD”) in order to bring cybercrimes under the division’s purview. The FTCD is responsible for prosecutions and all related appeals in regards to white-collar and other general commercial crimes, as well as corruption cases and cybercrimes.</p> <p>The Monetary Authority of Singapore (“MAS”) is responsible for issuing guidelines on money laundering, terrorist financing, and financial institutions. The MAS does not carry out investigations into these matters.</p> <p>The Singapore government also issues to all domestic public officials the Singapore Instruction Manual, which details the circumstances in which gifts and entertainment can be accepted and when they must be declared.</p>
	<p>Issues in Enforcement</p>	<p>While the PCA and the Penal Code are broad enough to cover individuals and corporations, enforcement action in Singapore has, to date, largely focused on the prosecution of individuals. This is likely a result of the evidentiary challenges in proving the directing mind and will of a corporation. However, corporations in Singapore are now facing increased scrutiny.</p>
	<p>Recent Movement</p>	<ul style="list-style-type: none"> • In April 2017, SPRING Singapore and the CPIB launched the Singapore Standard (“SS”) ISO 37001 on Anti-Bribery Management Systems—Requirements. This is a voluntary standard based on internationally recognized best practices to provide guidelines to help Singaporean companies strengthen their anti-bribery compliance systems and processes and to ensure compliance with anti-bribery laws. • In July 2017, the CPIB joined law enforcement agencies from Australia, Canada, New Zealand, the United Kingdom, and the United States in launching a new International Anti-Corruption Coordination Centre, which is intended to coordinate law enforcement action against global large-scale corruption. • In December 2017, Keppel Offshore & Marine Ltd (“KOM”) was served a conditional warning in lieu of prosecution for corruption offenses punishable under the PCA. The Attorney-General’s Chambers (“AGC”) and the CPIB were involved in investigative proceedings which revealed that between 2001 and 2014, KOM made corrupt payments to officials of the Brazilian state-run oil company, Petróleo Brasileiro S.A. (“Petrobras”), and other parties, in order to win contracts with Petrobras and/or its related companies. Under a global resolution led by the U.S. Department of Justice (“DOJ”) and in

		<p>consultation with Brazil and Singapore, a deferred prosecution agreement (“DPA”) was entered into between the DOJ and KOM. Pursuant to the DPA, KOM will pay a total criminal fine amounting to USD 422,216,980 to the United States, Brazil, and Singapore. The conditional warning was issued as part of the global resolution. In issuing the conditional warning, due consideration was given to KOM’s substantial cooperation with the investigations and the extensive remedial measures taken by KOM.</p> <ul style="list-style-type: none"> • In March 2018, the Singapore Parliament passed the Criminal Justice Reform Act, which introduced a DPA framework into Singapore’s Criminal Procedure Code. As in other jurisdictions, such as the United States and the United Kingdom, a Singapore DPA permits a company to enter into an agreement with an investigating or regulatory authority to defer or avoid prosecution on the condition that the company complies with specific terms in relation to its conduct and/or monitoring arrangements. If the company fails to observe the terms of the DPA, the public prosecutorial arm of the AGC may apply to the Singapore courts to prosecute the company. In addition to corruption offences, the Singapore DPA regime applies to money laundering and receipt of stolen property offenses. • In July 2018, a Singaporean woman involved in the largest bribery and fraud conspiracy in the history of the U.S. Navy was sentenced to 33 months in jail. The case, known as the “Fat Leonard scandal,” involved some US \$35 million and resulted in the arrest and conviction of several senior Navy officers in the United States.
<p>Participation in International Anti-Corruption Conventions</p>	<p>OECD Convention</p>	<p>Yes</p>
	<p>UNCAC</p>	<p>Signed November 11, 2005 Ratified November 6, 2009</p>
<p>Last Updated</p>		<p>June 13, 2018</p>

Region		Asia Pacific
Country		South Korea
2018 CPI	Rank	45/180
	Score	57
The Law on Bribery	Bribery of Domestic Officials	<p>South Korea has a number of laws that prohibit the bribery of domestic public officials, including the Korean Criminal Code, the Act on Aggravated Punishment, etc. of Specific Crimes (“Specific Crimes Act”), and the Act on Anti-Corruption and the Establishment and Operation of the Anti-Corruption and Civil Rights Commission (“Anti-Corruption Act”).</p> <p><u>Offering a bribe:</u> It is a criminal offense for a person to promise, deliver, or manifest a will to bribe a public official (Criminal Code art. 133). Violations are punishable by up to five years of imprisonment or a fine up to 20 million won.</p> <p><u>Receiving a bribe:</u> It is a criminal offense for a public official to receive, demand, or promise to accept a bribe in connection with his/her duties (Criminal Code art. 129). Violations are punishable by up to life imprisonment (the sentence varies according to the amount of the bribe; if less than 30 million won, then up to five years of imprisonment) and a fine which is not less than two times but not more than five times the amount of the bribe (Specific Crimes Act art. 2).</p> <p><u>Improper action:</u> If the public official carries out an improper action before or after the receipt of a bribe (Criminal Code art. 131), violations are punishable by at least one year of imprisonment and/or disqualification for up to 10 years.</p> <p><u>Corporate liability:</u> For domestic bribery violations, there is no corporate criminal liability. However, corporate criminal liability was created in the context of the new Improper Solicitation and Graft Act (“Anti-Graft Act”) as noted below.</p>
	Bribery of Foreign Officials	<p>The bribery of foreign public officials is prohibited by the Act on Combating Bribery of Foreign Public Officials in International Business Transactions (the Foreign Bribery Prevention Act; “FBPA”), which entered into effect in 1999. Under the FBPA, it is an offense to give, offer, or promise a bribe (any improper advantage) to a foreign public official in connection with the performance of the foreign public official’s duties (FBPA art. 3.1). However, the FBPA makes an exception when such gifts are allowed under the local law governing the foreign public official (FBPA art. 3.2). Individuals may be subject to up to five years of imprisonment or a fine up to 20 million won (if the pecuniary advantage obtained by such offense exceeds 10 million won, then the fine is up to the amount equivalent to double the pecuniary advantage).</p> <p><u>Corporate liability:</u> Corporations may be held liable for acts of bribery carried out by a representative, agent, employee, or servant, in the course of performing their business, but may be exempt from punishment if they have not neglected to take reasonable care or supervision to prevent violations. Legal entities may be fined up to 1 billion won (if the pecuniary advantage obtained by such offense exceeds 500 million won, then the fine is up to the amount equivalent to double the pecuniary advantage), and other penalties may be imposed on the actual individual offender (FBPA art. 4).</p>
	Commercial Bribery	<p>Private commercial bribery is prohibited under the Criminal Code. If a person provides economic benefits to another person who is entrusted with conducting the business of a legal entity or a principal, and the economic benefit is given as consideration for an illegal solicitation concerning his/her duty, the person who provides economic benefits may be subject to up to two years of imprisonment or by a fine up to 5 million won, and the person who receives economic benefits may be subject to up to five years of imprisonment or a fine up to 10 million won (Criminal Code art. 357).</p>
Definitions	Government Employee	Domestic public officials include employees of state and local governments as well as senior staff employees of government-controlled corporations that meet certain requirements under the Specific Crimes Act. The Presidential Enforcement Decree to the

		<p>Specific Crimes Act Article 2 identifies 46 such entities, including the Bank of Korea and the Financial Supervisory Service.</p> <p>While the public bribery prohibition under the Criminal Code applies to the provision of bribes to government officials and employees of state-owned enterprises and other public entities, the Anti-Graft Act is applicable to both such officials/employees and the employees of public and private schools, members of the media, and “those who serve a public function” (e.g., private citizens on government-appointed committees).</p> <p>With respect to foreign public officials, the FBPA mostly follows the OECD Convention and includes government officials of foreign states, employees of state-controlled entities, as well as individuals with public functions (public agencies) and officials of international organizations.</p>
	<p>Gratification (Gifts/ Entertainments/ etc.)</p>	<p>“Economic benefits” is broadly interpreted and can cover all forms of gifts, entertainment, travel, cash, etc., and officials are prohibited from receiving any of these benefits from individuals who may have any interest in the performance of the officials’ duties.</p> <p>The Code of Conduct for Public Officials issued by the president and amended in 2018 provides a number of exceptions which allow government officials to receive certain gifts under certain circumstances, such as meals “provided within the scope of conventional practices.”</p> <p>The Anti-Graft Act came into effect on September 28, 2016.</p> <p><u>Improper benefits:</u> The Anti-Graft Act prohibits the giving or receiving of “improper benefits.” Under such provisions, criminal liability can be imposed without showing such connection to the public official’s duties, as long as the value of benefits received by the public official exceeds 1 million won in a single instance or the aggregate value of benefits in a fiscal year period exceeds 3 million won (The Anti-Graft Act art. 8(1)). The Anti-Graft Act also restricts any benefits given “in connection with the public official’s duties,” imposing an administrative fine even for the benefits that do not exceed the above thresholds (The Anti-Graft Act art. 8(2)). However, there are limited exceptions enumerated in the law. Such exceptions include meals, gifts, and cash payments at weddings/funerals provided in the course of discharging duties or for social purposes/convention. At the time when the Anti-Graft Act was enacted, the cap on meals, gifts, and cash payments was 30,000 won, 50,000 won and 100,000 won, respectively.</p> <p>Under the amendment which took effect from January 17, 2018, the limits on meals remain at 30,000 won and gifts at 50,000 won (100,000 won if the gift comprises at least 50% of agricultural or fishery raw materials), while the limit on cash payments has been lowered to 50,000 won (100,000 won if flowers or wreaths are offered as a condolence or congratulatory gift; if both cash and flowers/wreaths are offered, the total value must not exceed 100,000 won, and the value of the cash gift must not exceed 50,000 won).</p> <p><u>Improper requests:</u> The Anti-Graft Act prohibits “improper requests” (i.e., causing public officials to violate laws or abuse their position or authority), irrespective of whether such request involves any payment or provision of benefits. The Anti-Graft Act illustrates 15 types of acts which constitute an improper request and provides for seven types of exceptions (The Anti-Graft Act art. 5).</p> <p><u>Corporate liability:</u> Under the Anti-Graft Act, corporate criminal liability may be imposed for the provision of a payment or benefit and improper request by employees if the corporation has not neglected to take reasonable care and supervision to prevent its employees’ violations (The Anti-Graft Act art. 24). It can also be subject to administrative sanctions depending on the amount of benefit conferred by its employee.</p>
<p>Current Status</p>	<p>Enforcement Body</p>	<p>The Anti-Corruption and Civil Rights Commission (“ACRC”), the major anti-corruption agency, is responsible for formulating national anti-corruption strategies and evaluating public initiatives.</p> <p>Critics have raised concerns about the ACRC’s abilities to focus on anti-corruption efforts and remain politically independent. Moreover, although the ACRC has the authority to accept complaints and whistleblower tips, it cannot conduct independent investigations. Such investigations are to be referred to other agencies or carried out by public prosecutors and the police instead.</p>

		Therefore, the usual criminal enforcement bodies (i.e., the police and the prosecutors' office) are responsible for enforcement of anti-corruption laws and regulations.
	Issues in Enforcement	<ul style="list-style-type: none"> • Weak witness and whistleblower protection laws (despite an increase in the number of whistleblowers, the real effect of the new whistleblower protection law has yet to be seen). • Low-level sanctions, especially for foreign bribery. • General leniency of the judiciary toward white-collar crimes. • Expansive definition of “public officials” in the Anti-Graft Act.
	Recent Movement	<p>New anti-bribery legislation titled the Improper Solicitation and Graft Act (Anti-Graft Act), commonly referred to as the “Kim Young-ran Law” (named after the former head of the Anti-Corruption & Civil Rights Commission who led the preparation of the original bill), was passed by the National Assembly on March 3, 2015, after undergoing numerous revisions over a period of several years. The new legislation came into effect on September 28, 2016, and drastically changed the regulatory landscape with respect to official and commercial bribery.</p> <p>The Anti-Graft Act makes several fundamental amendments to the existing anti-bribery regime. First, it broadens the definition of “public officials” to include schoolteachers and employees of media and press organizations. Second, it allows criminal prosecution based on the amount of economic benefits conferred, without requiring proof of additional elements required under the former bribery provisions.</p> <p>Accordingly, the Anti-Graft Act criminalizes taking, demanding, or promising to receive something with a value exceeding 1 million won per occasion or the aggregate of 3 million won per fiscal year (“Threshold Value”) by a public official or his/her spouse, regardless of whether the benefit was given in relation to the public official’s official duties. Under the Anti-Graft Act, the bribe-giver as well as the public official may be subject to a fine of up to 30 million won or imprisonment of up to three years.</p> <p>The Anti-Graft Act prohibits the mere act of improperly soliciting a public official (i.e., a request that they act beyond or in violation of their authority) without providing anything of value, and consequently a person who improperly solicits a public official may face an administrative fine of up to 20 million won, and the public official may be subject to a fine of up to 20 million won or imprisonment of up to two years.</p> <p>Moreover, the Anti-Graft Act punishes a corporate entity for violations of the Anti-Graft Act by its employees with fines of up to the same amount to which an individual is subject. However, a corporate entity may be exempted from such punishment if it had undertaken reasonable care and supervision in order to prevent the commission of an offense.</p> <p>In addition, the Enforcement Decree of the Anti-Graft Act was amended in response to calls for more realistic monetary limits and other demands by the agricultural, fishery, and floricultural sectors. As a result, the monetary limits on meals, gifts, and cash payments at weddings and funerals have been adjusted and a prohibition has been placed on providing marketable securities as a form of gift. The amendment entered into force on January 17, 2018.</p> <p>The Code of Conduct for Public Officials was amended on December 24, 2018, to add a provision which explicitly prohibits a public official of a supervising institution from making any improper request for money, courtesies, etc. to a person at a supervised institution.</p> <p>FBPA was amended on December 18, 2018, in order to add a provision that penalizes: (i) a person who knowingly gives a bribe to a third person for the purpose of delivering a bribe to a foreign public official; and (ii) a person who knowingly accepts a bribe for the purpose of delivering a bribe to a foreign public official.</p>
Participation in International Anti-	OECD Convention	Yes
	UNCAC	Signed December 10, 2003

Corruption Conventions		Ratified March 27, 2008
Last Updated		June 12, 2019

Region		Asia Pacific
Country		Taiwan
2018 CPI	Rank	31/180
	Score	63
The Law on Bribery	Bribery of Domestic Officials	<p>In Taiwan, anti-bribery practices are governed by the Anti-Corruption Act (“ACA”), which became effective in 1963 and was newly amended in June 2016, as well as the Criminal Code, which was enacted in 1935 and newly amended on November 30, 2016. In practice, criminal courts apply the ACA instead of the Criminal Code in dealing with corruption-related cases because the ACA was enacted to address corruption issues and therefore trumps the general law (i.e., the Criminal Code). This summary focuses on the provisions of the ACA.</p> <p><u>Offering a bribe:</u> It is a criminal offense for any person to offer, promise, or give a bribe or other unjust interest to a public official to perform a relevant function or activity, regardless of whether or not the public official violates his/her duty. However, an offender will be subject to more severe penalties if such offender offers, promises, or gives a bribe or other unjust interest to a public official to perform a relevant function or activity in violation of that public official’s duties (Paragraph 1 and 2, Article 11 of the ACA).</p> <p><u>Receiving a bribe:</u> It is a criminal offense for a public official to demand, agree to accept, or accept a bribe or other unjust interest for the performance of a relevant function or activity, regardless of whether the public official violates his/her duty. However, the public official will be subject to more severe penalties if he/she violates his/her duties (Subparagraph 5, Paragraph 1, Article 4 and Subparagraph 3, Paragraph 1, Article 5 of the ACA).</p> <p><u>Corporate liability:</u> Neither the ACA nor the Criminal Code imposes criminal liability on legal entities, and therefore only individuals are subject to criminal punishment.</p>
	Bribery of Foreign Officials	It is a criminal offense for any person to offer, promise, or give a bribe or other unjust interest to a public official of a foreign country, Mainland China, Hong Kong, or Macao in cross-border trade, investment, or other commercial activities, for soliciting the performance of a relevant function or activity, regardless of whether the public official violates his/her duty (Paragraph 3, Article 11 of the ACA).
	Commercial Bribery	In Taiwan, whereas the bribery of a “public official” constitutes an offense of malfeasance in office under the Criminal Code and is also subject to criminal liability under the ACA, the payment of a kickback in the private sector may constitute a breach of trust offense under the Criminal Code.
Definitions	Government Employee	<p>“Public official” is given the following meaning in the Criminal Code:</p> <ul style="list-style-type: none"> • People who serve the agencies of the Taiwan government or local autonomy so as to be provided with legal functions, or people who engage in public affairs in accordance with laws so as to be provided with legal functions (Subparagraph 1, Paragraph 2, Article 10, Criminal Code). • People who are authorized by the agencies of the Taiwan government or local autonomy in accordance with law for engaging in the public affairs within the authority of the consignor (Subparagraph 2, Paragraph 2, Article 10, Criminal Code).
	Gratification (Gifts/Entertainments/etc.)	Neither the ACA nor the Criminal Code provides a clear definition of “bribe” or “unjust interest.” Generally, criminal judges would follow the definitions established by Supreme Court precedents: (i) Bribe: money or goods that can be valued by money could be regarded as a bribe; (ii) Unjust interest: apart from a bribe, any tangible or intangible interest that can satisfy one’s need or desire could be regarded as an unjust interest.

Current Status	Enforcement Body	In Taiwan, prosecutors are responsible for launching an investigation into any potential corruption cases and filing indictments.
	Issues in Enforcement	<p>The Taiwan Supreme Court’s viewpoint on “quid pro quo,” an element of the crime of bribery, is a controversial issue that relates to anti-corruption laws.</p> <ul style="list-style-type: none"> • Most judgments follow a precedent which suggests that a public servant is guilty of bribery only on the condition that he/she receives something of value and violates his/her duties. • Some of the judgments released in the last decade take a position divergent from this precedent, however, reasoning that a public servant is guilty of bribery regardless of whether the payment is paid to seduce the public servant from his/her legal duty, as long as such public servant is likely to substantially contribute to what the briber requests. The Taiwan Supreme Court has discussed this controversy yet has not reached a consensus, so establishing the crime of bribery remains unpredictable.
	Recent Movement	<p>Regarding the status of the UNCAC in Taiwan, although the deposit procedure for Taiwan’s ratification of the UNCAC has yet to be completed, the president promulgated the UNCAC on September 7, 2016, in accordance with Article 11 of the Treaty Conclusion Act, which provides an exemption from the deposit procedure when such procedure is unable to be done under special circumstances. Therefore, the UNCAC has entered into effect in Taiwan as of the date of promulgation.</p> <p>In 2018, there were several high-profile cases regarding bribery, including:</p> <ul style="list-style-type: none"> • Former congressman Jyh-Peng Gao, who had been convicted by the Taiwan High Court for illegally lobbying officers of the Ministry of Finance regarding booth rental in the public traditional market in exchange for a NTD 500,000 bribe, had his conviction confirmed by the Taiwan Supreme Court on December 26, 2018. He was sentenced to four-and-a-half years for bribery and four years’ deprivation of citizens right, making him ineligible to serve as a lawmaker. • The former mayor of Nantou County, Li Chao-Ching, was accused of taking kickbacks of more than NTD 9 million relating to contracts for road rehabilitation in Nantou, and he was indicted for 111 unlawful acts of bribery. The Supreme Court confirmed him as guilty of eight offenses on October 18, 2018. Most allegations against him were remanded for further investigation by the Taiwan High Court; however, he still faces four to 12 years of imprisonment for each offense. The sentence, which can be up to 30 years, will depend on the prosecutor’s discretion. • Six Hsinchu county council members—Guang-Rong Lin, Liang-Bin Liu, Yi-Xian Zhao, Bao-Guang Lin, Ming-Hui Su, and A-Yung Hsu—who awarded the central government educational grants to book retailers and software suppliers in exchange for kickbacks from NTD 100,000 to 850,000, were found guilty and their appeals were dismissed by the Taiwan Supreme Court on October 11, 2018. They were sentenced to one to 13 years’ imprisonment and were removed of their qualification as county council members.
Participation in International Anti-Corruption Conventions	OECD Convention	No
	UNCAC	No
Last Updated		June 12, 2019

Region		Asia Pacific
Country		Thailand
2018 CPI	Rank	99/180
	Score	36
The Law on Bribery	Bribery of Domestic Officials	<p>A number of laws in Thailand cover anti-corruption offenses, including the Thai Penal Code – BE 2499 (“Penal Code”), the Offense of State Organization Staff Act – BE 2502 (“State Staff Act”), the Organic Act on Counter Corruption – BE 2561 (“Anti-Corruption Act”), the Rules of the Office of the Civil Service Commission on the Code of Ethics for Civil Servants BE 2537, the Code of Morals and Ethics of Polices BE 2551, the Notification of the Office of the National Counter Corruption Commission Concerning the Provisions of the Acceptance of Property or Any Other Benefits on Ethical Basis by State Official BE 2543, and the Act Concerning Offenses Relating to the Submission of Bids to Government Agencies – BE 2542. In general, each of the offeror, facilitator and receiver of a bribe can be subject to criminal penalties.</p> <p><u>Offering a bribe:</u> It is a crime for one to give, offer, or agree to give property or benefits to the following persons in order to induce them to wrongfully discharge, omit to discharge, or delay the discharge of his/her duties:</p> <ul style="list-style-type: none"> • Any official, member of the National Legislative Assembly, member of the Provincial Assembly, or member of the Municipal Assembly: the offender shall be punishable with up to five years’ imprisonment and/or a fine of up to THB 100,000 (Penal Code sec. 144) (Anti-Corruption Act sec.176); and • A judge, public prosecutor, other officials tied to a case, or inquiry officer: the offender shall be punishable up to seven years’ imprisonment or a fine of up to THB 140,000 (Penal Code sec. 167). <p><u>Receiving a bribe:</u> It is a crime for a public official, member of the National Legislative Assembly, member of the Provincial Assembly, member of the Municipal Assembly, judge, public prosecutor, other officials tied to a case, or inquiry officer to demand, accept, or agree to accept property or a benefit that was given or promised in exchange for the official’s performance of or omission to perform his/her duty, regardless whether for him/herself or other person:</p> <ul style="list-style-type: none"> • Punishable with five to 20 years’ imprisonment or imprisonment for life and a fine of THB 100,000 to 400,000 or the death penalty (Penal Code sec. 149 and 201); and • Punishable with five to 20 years’ imprisonment or imprisonment for life and a fine of THB 100,000 to 400,000 (Anti-Corruption Act sec.173). <p>Offering a bribe is a crime only if the performance or omission of performance sought is in conflict with the official’s legal duty. Receiving a bribe is a crime regardless of whether the performance or omission of performance sought is in conflict with the official’s legal duty.</p> <p><u>Bribes before taking post:</u> It is a crime for a public official, judge, public prosecutor, other officials tied to a case, or inquiry officer to exercise or not exercise any of his/her duty in consideration of property or any other benefit which he/she has demanded, accepted, or agreed to accept before his/her appointment to such position:</p> <ul style="list-style-type: none"> • A public official shall be punishable with five to 20 years’ imprisonment or imprisonment for life and a fine of THB 100,000 to 400,000 (Penal Code sec. 150); • A judge, public prosecutor, other officials tied to a case or inquiry officer shall be punishable with five to 20 years’ imprisonment or imprisonment for life and a fine of THB 100,000 to 400,000 or the death penalty (Penal Code sec. 202); and • Punishable with five to 20 years’ imprisonment or imprisonment for life and a fine of THB 100,000 to 400,000 (Anti-Corruption Act sec.174). <p><u>Middleman:</u> Whoever demands, accepts, or agrees to accept property or any other benefit for him/herself or the other person as a return for inducing or having induced, by dishonest</p>

		<p>or unlawful means, or by using his/her influence, any public official to exercise or not to exercise any of his functions, which is advantageous or disadvantageous to any person, shall be punishable with up to five years' imprisonment and/or a fine of up to THB 100,000 (Penal Code sec. 143) (Anti-Corruption Act sec.175).</p> <p><u>Coercing or inducing a bribe:</u> It is a crime for a public official who, by a wrongful exercise of his/her duties, coerces or induces any person to deliver or to procure the property or any other benefit for him/herself or other person; upon which he/she shall be punishable with five to 20 years' imprisonment or imprisonment for life and a fine of THB 100,000 to 400,000 or the death penalty (Penal Code sec. 148).</p> <p><u>Corporate liability:</u> Companies may be criminally charged for bribery if the bribe was carried out through a company representative who was acting within the scope of his/her authority and for the benefit of the company. However, only fines can be imposed on the company (although the representative, as an individual, can be prosecuted as a co-defendant and sentenced to prison) (Thai Supreme Court Decision No. 787-788/2506 and No. 584/2508).</p> <p>In addition, according to Section 176 of the Anti-Corruption Act, any person who gives or requests to give or undertakes to give property or any other benefits to a state official in order to induce him/her to act, not act, or wrongfully delay action, thereby breaching his/her duty, shall be imprisoned for a term not exceeding five years or a fine not exceeding THB 100,000, or both.</p> <p>In the case where the offender under Section 176 of the Anti-Corruption Act is a person associated with the company (i.e. representative, employee, agent, affiliated company, or any person acting for or on behalf of company, regardless of whether having the power or authority to take such action) and the action was taken for the benefit of the company, provided that such company does not have in place appropriate internal control measures to prevent the commission of such offense, the company shall be deemed to have committed the offense under this section and shall be liable to a fine of one to two times the damages caused or benefits received. It is noteworthy that the company under this section includes those established under Thai laws as well as those established under the foreign laws which operate business in Thailand.</p>
	<p>Bribery of Foreign Officials</p>	<p>The Anti-Corruption Act provides for liability for bribery of state officials of foreign countries and officials of international organizations, as described below.</p> <p>The term “state official of the foreign country” means a person holding a legislative, administrative, governing, or judiciary position in the foreign country, and any person performing duties for the foreign country, including for a state agency or a state enterprise, regardless of whether or not such person is appointed or elected, holds a permanent or temporary position, or receives wages or other remunerations (Anti-Corruption Act sec. 4).</p> <p>The term “official of an international organization” means a person either performing in an international organization or authorized to act on behalf of such an international organization.</p> <p><u>Receiving a bribe:</u> It is a crime for a state official of a foreign country or an official of an international organization to:</p> <ul style="list-style-type: none"> • Request, accept, or agree to accept any assets or other benefits for oneself or another person in exchange for any act or omission in his/her position, regardless of whether such act is in conflict with his/her duty; the offender shall be punishable with five to 20 years' imprisonment or imprisonment for life and a fine of THB 100,000 to 400,000 (Anti-Corruption Act sec. 173); and • Perform an act or omission in his/her in position with the intention to obtain assets or other benefits which he/she requests, accepts, or agrees to accept before taking such position; the offender shall be punishable with five to 20 years' imprisonment or imprisonment for life and a fine of THB 100,000 to 400,000 (Anti-Corruption Act sec. 174). <p><u>Middlemen:</u> It is a crime for any person to request, accept, or agree to accept any assets or other benefits for oneself or another person as a reward for inducing or having induced through corruption, illegal means, or by influence, a state official of a foreign country or official of an international organization to perform or fail to perform his/her duty to the</p>

		<p>benefit or detriment of any person; the offender shall be punishable with up to five years' imprisonment and/or a fine of up to THB 100,000 (Anti-Corruption Act sec. 175); and</p> <p><u>Offering a bribe:</u> It is a crime for any person to give, offer to give, or promise to give any property or benefit to a state official of a foreign country or official of an international organization with an intent to induce such person to wrongfully perform, not perform, or delay the performance of any duty in his/her office; the offender shall be punishable with up to five years' imprisonment and/or a fine of up to THB 100,000 (Anti-Corruption Act sec. 176).</p>
	<p>Commercial Bribery</p>	<p>Thailand does not criminalize bribery in the private sector. However, private-sector corruption often involves the falsification of records. This is because companies typically intentionally record commercial bribery transactions as other types of transactions, and when this is detected, it will likely be treated as a violation of the Accounting Act BE 2543 ("Accounting Act"), which requires the keeping of accurate and complete records. Private parties can bring private criminal proceedings in Thailand, and if a party suspects commercial bribery, such party can use Accounting Act charges against the company as leverage. Additionally, the Revenue Department has become more aggressive in checking for compliance with the Accounting Act and will use Accounting Act charges when, for example, there are fake invoices to offshore companies (as is often the case in corrupt activities). The Accounting Act is useful in this area because the falsification of records is easier to prove than bribery or tax evasion.</p>
<p>Definitions</p>	<p>Government Employee</p>	<p>Government employees are defined differently under various anti-corruption laws.</p> <p>"Public Official":</p> <ul style="list-style-type: none"> • Under the Penal Code, "Public Official" refers to a person whose position stipulates that he/she is a public official or has been appointed to perform governmental functions, regardless of whether he/she holds a permanent or temporary position, or receives remunerations (Penal Code). • Under the Anti-Corruption Act, "Public Official" refers to a state official, person holding a political position, judge of the Constitutional Court, person holding a position in an independent agency, and the National Anti-Corruption Committee ("NACC") (Anti-Corruption Act). <p>"State staff" includes anyone who works in an organization, company, agency, or another entity where more than 50% of the entity's capital is held by the Thai government (State Staff Act).</p> <p>"State Official" refers to a government official or local official holding a position or receiving regular salary, person performing duties in a state agency or a state enterprise, local administrator, deputy local administrator, assistant local administrator and member of a local assembly, official under the law on local administration, or other official as provided by the law, and shall include member of a Board/Commission/Committee or of a Sub-Commission/Sub-Committee, employee of a government agency, state agency, or state enterprise and person or group of persons permitted by law to exercise or being assigned to exercise the administrative power established under the government system, state enterprise, or other state administration, but shall not include a person holding a political position, judge of the Constitutional Court, person holding a position in an independent agency, and the NACC (Anti-Corruption Act).</p> <p>"Foreign Official" refers to a person who holds a legislative, executive, administrative, or judicial position for a foreign country or any other person who works for the government of a foreign country, including an employee of a government agency or state enterprise, whether they are elected or appointed, hold a permanent or temporary position, or receive salaries or any other benefits (Anti-Corruption Act).</p> <p>"Official of an International Organization" means a person who works for an international organization or who is appointed by an international organization to act on its behalf (Anti-Corruption Act).</p>

	<p>Gratification (Gifts/ Entertainments/ etc.)</p>	<p>Under the “3,000 Thai Baht Rule” issued by the NACC in 2000, state officials are prohibited from receiving any gift from nonrelatives in any form (including travel, entertainment, etc.) that exceeds THB 3,000 in monetary value. If the official feels compelled to receive a gift over THB 3,000 in order to maintain friendship and goodwill, he/she must report the gift to his/her superior, who would then decide whether the gift is acceptable or whether it must be surrendered.</p>
<p>Current Status</p>	<p>Enforcement Body</p>	<p>The NACC was established under the 1997 Constitution and the Anti-Corruption Act to prevent and investigate corruption crimes.</p>
	<p>Issues in Enforcement</p>	<p>Under the Anti-Corruption Act, the NACC has, among other powers, the power to:</p> <ul style="list-style-type: none"> • Conduct an inquiry into and prepare an opinion in cases of allegations that a person holding a political position, a judge of the Constitutional Court, or a person holding a position in an independent agency is involved in circumstances of unusual wealth, corruption, deliberate exercise of power in contrary to the provisions of the Constitution or laws, or a serious violation of or failure to comply with the ethical standards; • Conduct an inquiry into and decide whether a state official is involved in circumstances of unusual wealth, has committed an offence of corruption, or malfeasance in public office or judicial office; • Obligate persons holding political positions, judges of the Constitutional Court, persons holding positions in independent agencies, and state officials to submit accounts showing the particulars of their and their immediate family’s assets and liabilities, and to inspect and disclose the results of the inspection of such accounts; • Conduct an inquiry aimed at taking legal action with respect to other offenses provided by the Anti-Corruption Act, or those prescribed by law to be under the duties and powers of the NACC; • Carry out other duties and powers provided by the Constitution, the Anti-Corruption Act, or other laws; • Propose measures, issue opinions, and make recommendations to the Cabinet, Parliament, Courts of Justice, independent agencies, or public prosecution organ with respect to the matters stated in the Anti-Corruption Act (e.g., propose the amendment of laws, statutes, regulations, or ordinances or take any measures to address potential channels for corruption or misconduct or that may render state officials incapable of performing their duties in the interest of the state); • Issue an order instructing a government official, officer, or employee of a government agency, state agency, state enterprise, or local government agency to give a statement or deliver relevant documents or evidence for the purpose of inquiry; • Summon any person to give a statement or to submit accounts, documents, or any evidence for the purpose of inquiry; • File a motion in a competent court for the issuance of a warrant permitting entry into person’s dwelling place, place of business, or any other place (including a vehicle) at any time from sunrise to sunset or during working hours for the purposes of inspecting, searching, seizing, or freezing documents, property, or other evidence related to the matter under inquiry; and if such action is not completed within such time, it may be continued further until completion; • Issue an order requesting a government agency, state agency, state enterprise, local governmental agency, or private entity to clarify the fact, facilitate, or assist in the performance of duties of the NACC; • Hire a consultant or expert in the search of information relating to assets or liabilities, and asset recovery proceedings in a foreign jurisdiction. The hiring shall be in accordance with the regulations as prescribed by the NACC; • Issue regulations and notifications applicable to the NACC under the Anti-Corruption Act (e.g., issuance of regulations on the preparation, disclosure, dissemination, maintenance, and destruction of documents and information in the possession of the NACC); • Issue regulations or notifications in relation to the management of NACC personnel (e.g., prescription of positions, salary, extra emolument for position, and remuneration or other entitlements and benefits of the Secretary-General,

		<p>government officials, government staff and employees of the NACC and working days and hours, official holidays in accordance with the custom and annual official holidays);</p> <ul style="list-style-type: none"> • Be the competent authority for international cooperation under international obligations and agreements regarding anti-corruption; and • Act on requests for assistance from foreign countries in corruption cases where the central legal authority on mutual legal assistance in criminal matters submits the matters to the NACC to proceed, or consider providing assistance to a foreign country in a corruption case where assistance has not been formally requested under the law on mutual legal assistance in criminal matters.
	<p>Recent Movement</p>	<p>The Thai government has been actively moving forward to eliminate all forms of corruption by introducing and enforcing government policies, domestic legislation, and international agreements that have become important tools in tackling corruption across borders.</p> <p>In recent years, the Thai government has enacted a number of measures against corruption:</p> <ol style="list-style-type: none"> 1. <u>The Act on Facilitation for Consideration of Approvals from the Government Agencies – BE 2558</u> <p>This act was published on January 22, 2015, and principally applies to licensing, registration, and reporting obligations. The law requires certain government agencies to streamline their approval and regulatory processes so as to minimize opportunities for officials to demand bribes. In other words, it is intended to address demand-side corruption by reducing opportunities for rent seeking by government officials. One of the requirements of this act is that government departments issue reports (for review) justifying the obligations they impose and manuals that clearly describe their licensing procedures to minimize the opportunities for officials to deny permits based on vague “discretionary” powers and use such denials to demand bribes. The law requires publication of licensing procedures (available to the public) and electronic submissions to reduce the opportunities for demand-side corruption. The law does not apply to various matters, such as criminal justice proceedings, licensing under the law on natural resources and the environment, military operations, and the control and manufacture of weapons by a private entity. It requires a review (for amendment) of the laws which allow for government licensing every five years from the date of publication of such laws.</p> <ol style="list-style-type: none"> 2. <u>The Khemarat Declaration</u> <p>This declaration was announced by the Customs Department on April 1, 2015, at the Khemarat Customs Office located in Ubon Ratchathani Province. The Khemarat Declaration is essentially a promise by officials and permanent and temporary staff members of the Customs Department that they will conduct themselves in a good, moral, ethical, and transparent manner, free from corruption and fraudulent acts. The Customs Department also assured the public that in complying with the Khemarat Declaration, the efficiency in providing services by the Customs Department will not deteriorate. The Customs Department has requested that all relevant units and organizations jointly monitor the proceedings performed by the Customs Department under the Khemarat Declaration and has asked them to stop giving any benefits to the officials and staff members of the Customs Department.</p> <p>The Customs Department has also set up the Khemarat Steering Committees in central and local Customs Offices consisting of people from various units of government, the private sector, the mass media, the Office of the National Anti-Corruption Commission, and the Office of the Public Sector Anti-Corruption Commission (“PACC”) to direct and support the project and resolve any issues that may arise. The Customs Department will proceed with policies to reduce the direct connection between export and import business operators, customs brokers, and officials of the Customs Department by using technology in customs inspections.</p> <ol style="list-style-type: none"> 3. <u>The Thailand Anti-Corruption Agreements Coordination Center (“TACC”)</u> <p>The TACC was established following Thailand’s ratification of the UNCAC to comply with section 138 (1) of the Anti-Corruption Act.</p> <p>The Thai government has announced that it intends to achieve a CPI score of above 50 before 2020 and that it is aggressively launching various measures to achieve this goal.</p>

However, the efficacy of some of these measures has been questioned. Since last year, Thailand's CPI ranking fell from 96th to 99th and its transparency score fell from 37 to 36 scores.

4. MOU between NACC, the State Enterprise Policy Office and 54 State Enterprises

This MOU was signed in September 2017 and aims to strengthen cooperation between the government and 54 major state enterprises in pushing forward the national strategy in preventing and suppressing corruption. As state enterprises play significant roles in driving the nation's economy, it is important to establish a mutual understanding with these organizations to promote good governance in the nation as a whole. This MOU outlines the commitments of the state enterprises and the government in various matters, including implementing government policy into practice, reporting outcomes, supervising and monitoring transparency, conducting integrity and transparency assessments, and establishing a special unit in each state enterprise to fight corruption.

5. Integrity Pact

On September 8, 2018, the Royal Gazette published the notification in relation to the Integrity Pact issued under the Government Procurement and Supplies Management Act BE 2560 by the Anti-Corruption Cooperation Committee. The purpose of adopting the Integrity Pact is to encourage transparency with respect to certain government agency procurement projects (e.g., procurement projects with a credit limit of THB 1,000 million or more).

The Integrity Pact is a written agreement between a government agency acting as a project owner and a project operator from the private sector. Under the Integrity Pact, such government agency and private operator agree not to commit corruption in the procurement process and suggest to the Anti-Corruption Committee a neutral observer to oversee all stages of the procurement process. The observer shall possess the relevant knowledge, expertise, and experience and shall be a disinterested party with respect to the procurement project.

6. Anti-Corruption Courts and Cross-Border Cooperation under the UNCAC

Thailand has enacted legislation to create anti-corruption courts. In October 2016, the central anti-corruption courts for Bangkok and nearby provinces were opened. In late 2017, regional anti-corruption courts were established. The anti-corruption courts have seen the following high-profile cases:

- In its first high-profile case, on March 29, 2017, the Bangkok anti-corruption court imposed a 50-year prison sentence on the former Governor-General of the Thai Tourism Authority ("TAT"), Juthimas Siriwan; imposed a 44-year sentence on her daughter, Jittisopha Siriwan; and seized more than USD 1.8 million in bribes they received from an American couple, Gerald and Patricia Green, in exchange for the right to organize the Bangkok Film Festival.

The bribers, Gerald and Patricia Green, were convicted of violating the FCPA and related charges on September 11, 2009, and each served six-month prison terms. Before the Thai courts commenced proceedings against the Siriwans, the U.S. had indicted them on wire fraud and related charges. The Siriwans contested the U.S. charges, and after several years of protracted proceedings in the U.S., an order was issued staying the U.S. proceedings against the Siriwans while the Thai authorities commenced criminal proceedings against them in Thailand. On May 8, 2018, the Court of Appeals affirmed the Court of First Instance's March 29, 2017, decision to sentence Juthimas Siriwan to 50 years' imprisonment, and reduced the sentence for Jittisopha Siriwan to 40 years' imprisonment.

This case is not only the first ruling of the anti-corruption courts, but it is also a reflection of the level of cooperation between the Thai and U.S. governments under the UNCAC. After Gerald and Patricia Green were convicted in the U.S., the FBI and U.S. Justice Department provided the evidence of the Siriwans' misconduct to the NACC. In accordance with the UNCAC, Thai officials will continue to coordinate with the U.S. government in order to conduct an overseas seizure of the USD 1.8 million in bribes that were deposited in U.S. bank accounts.

		<ul style="list-style-type: none"> • The “Rolls-Royce bribery scandal,” which has implicated the Thai government, among many other countries, has also drawn the attention of the NACC and involved cooperation with foreign governments under the UNCAC. However, although the NACC received relevant information about the bribe from Britain’s anti-corruption agency, news publications have reported that the NACC admitted that its investigation was progressing slowly due to several factors, including the long timespan over which the case occurred, the need to cooperate with many foreign countries to obtain information, and the many Thai laws and government agencies that are implicated. • The anti-corruption court’s most recent case relates to the Kanom Thermal Power Plant Construction Project. Early this year, the Tokyo District Court ruled on the guilt of two executives of Mitsubishi Hitachi Power Systems Company with respect to bribery of high-ranking officials in Thailand. Cooperating with the Japanese public prosecutor, the NACC found that there are four to five local public officials and several government agencies (including the Customs Department, Marine Department, and local government agencies) involved in the case, and the value of the bribe is approximately THB 20 million.
Participation in International Anti-Corruption Conventions	OECD Convention	No
	UNCAC	Signed December 9, 2003 Ratified March 1, 2011
Last Updated		June 19, 2019

Region		Asia Pacific
Country		Timor-Leste
2018 CPI	Rank	105/180
	Score	35
The Law on Bribery	Bribery of Domestic Officials	<p>Anti-corruption provisions are included in the Criminal Code (Decree-Law No. 19/2009, of April 8, 2009, as amended by Law No. 6/2009, of July 15, 2009, Law No. 17/2011, of December 28, 2011, Law No. 4/2013, of September 11, 2013, Law No. 3/2017, of January 25, 2017, and Law No. 5/2017, of April 19, 2017) and the Legal Framework for Public Servants (Law No. 8/2004, of June 16, 2004, as amended and restated by Law No. 5/2009, of July 15, 2009).</p> <p>The Criminal Code contains various provisions applicable to anti-corruption and related matters (such as trading in influence) in the public sector.</p> <p><u>Passive Corruption:</u></p> <ul style="list-style-type: none"> • Article 292.1 provides that a crime of passive corruption for an unlawful act occurs when “[a]n official, personally or through a third party, with his/her consent or ratification, solicits or accepts for himself/herself or a third party, and without being entitled to do so, any monetary or non-monetary advantage, or a promise of such advantage, in order to perform an act or omission which is contrary to the duties of the office he/she holds—even if performed prior to the solicitation or acceptance.” An official that engages in such behavior shall be subject to a prison term of between three and 15 years. • Article 293.1 provides that a crime of passive corruption for a lawful act shall take place when “[a]n official, personally or through a third party, with his/her consent or ratification, solicits or accepts for himself/herself or a third party, and without being entitled to do so, any monetary or non-monetary advantage, or a promise of such advantage, in order to perform an act or omission which is not contrary to the duties of the office he/she holds—even if performed prior to the solicitation or acceptance.” An official that engages in such behavior shall be subject to a prison term of up to three years or a fine. • Article 293.2 subjects to the same penalty any official that similarly solicits or accepts such an advantage (in the same terms described in Article 293.1) “from a person or entity that has had, has or will have any issue pending before the official to be decided by the latter in the exercise of his/her public office.” <p><u>Active Corruption:</u></p> <ul style="list-style-type: none"> • Article 294 provides that an act of active corruption shall occur when a person “personally or through a third party, with his/her consent or ratification, offers or promises to an official, or to a third party with the official’s knowledge, any monetary or non-monetary advantage to which the official is not entitled, for the performance of an act or omission which is contrary to the duties of the office held—even if such act or omission is performed prior to the solicitation or acceptance.” In this case, the agent of the crime shall be subject to a prison term of between three and 10 years. Should such act or omission not be contrary to the duties of the office held, the agent of the crime shall be subject to a prison term of up to two years or a fine. <p>The Criminal Code also provides that, when the agent of any of the aforementioned crimes is someone who is entrusted with political or judicial functions, the upper limit of the prison terms is increased by one third.</p>
	Bribery of Foreign Officials	Pursuant to the Criminal Code, foreign officials are subject to the same rules as local officials.
	Commercial Bribery	Timor-Leste law does not contain any provision on trading in influence or corruption in the private sector.

Definitions	Government Employee	<p>For the purposes of the above provisions of the Criminal Code, an “official” shall include, <i>inter alia</i>:</p> <ul style="list-style-type: none"> • A public servant or public service agent; • Members of the armed forces and police; • Any person who, even if temporarily, with remuneration or free of charge, voluntarily or forcefully, has been called to perform or participate in the performance of an activity included in the public or judicial administration; • A foreign public servant who is the holder of a legislative, executive, administrative, or judicial office of a foreign country, already appointed, or the person who holds public office in a foreign country, including in a public body or a state-owned company; and • An international public organization servant who has been authorized by said organization to act in its name. <p>Pursuant to Article 302.2 of the Criminal Code, the anti-corruption provisions also apply to those who are entrusted with political, governmental, or legislative functions.</p> <p>Under Article 3 of Legal Framework for Public Servants, a public servant is an individual who is hired and appointed for a permanent function in the public administration, with certain duties and rights in accordance with the applicable rules. On the other hand, a public service agent is an individual who, not being a public servant, is hired for a fixed term to perform functions which are typically public and not of a temporary nature.</p>
	Gratification (Gifts/ Entertainments/ etc.)	<p>Although no specific definition of “gratification” is provided for under the laws of Timor-Leste, nor are any amounts set forth in this respect, the law does contain a general principle according to which government officials shall only receive the compensation and per diems, etc., set forth by statute and should not receive any additional compensation or remuneration for performing their public functions.</p> <p>Additionally, public servants and public service agents are prohibited from receiving gifts or souvenirs from any person whose conduct is suspected to be related to the performance of the public servant’s or the public service agent’s duties, i.e., when the offering is suspected to have as its purpose the influencing of the servant’s or agent’s actions or omissions.</p>
Current Status	Enforcement Body	<p>The proceedings may be initiated by the Public Prosecutor’s Office or the Anti-Corruption Commission (created through Law No. 8/2009, of July 15, 2009) before being taken to court.</p> <p>The rules on the structure and organization of the Anti-Corruption Commission were approved by means of Decree-Law No. 23/2015, of July 29, 2015, as well as the rules on the roles of Anti-Corruption Specialists, by means of Decree-Law No. 24/2015, of July 29, 2015.</p> <p>Also, the Scientific and Criminal Investigation Police (created in 2014 by means of Decree-Law No. 15/2014, of May 14, 2014, as amended by Decree-Law No. 21/2014, of August 6, 2014) began performing its activities earlier this year. The Scientific and Criminal Investigation Police is responsible for assisting other enforcement bodies in the prevention, detection, and investigation of criminal activities, including, among others, economic crimes. It assists the Anti-Corruption Commission in investigations pertaining to corruption cases, including bribery, coercion of magistrates, denial of justice, and obstruction of jurisdictional activity.</p>
	Issues in Enforcement	<p>The judiciary and attorney-general’s office have prosecuted a number of high-profile corruption-related offenses, namely, the conviction for corruption-related crimes of (i) a former Minister of Justice and (ii) a former Secretary of State for the Environment and two members of his staff.</p> <p>In December 2016, the Dili District Court sentenced the former Minister of Finance and the former Vice-Minister of Health to seven and four years’ imprisonment, respectively. Both individuals were sentenced for embezzlement related-crimes (economic participation in a</p>

		<p>state transaction and financial mismanagement) due to the award of a contract to the former Minister’s husband while she was in office.</p> <p>In 2017, the Dili Court convicted a Portuguese couple of embezzlement, in a case involving a former advisor to the Ministry of Finance (Bobby Boye), who himself was convicted in the U.S. for fraud.</p> <p>The government has signaled its commitment to fighting corruption, most notably by creating the Anti-Corruption Commission and becoming the first country in Asia and the third in the world to become fully EITI compliant.</p>
	Recent Movement	<p>In the past years, there has been an increase in the number of investigations into companies incorporated in Timor-Leste due to suspicions of money laundering. This is mostly due to the recent changes in the internal structure of the Public Prosecutor’s Office, which now has a specific department dealing with corruption and money laundering, and because of the existence of the Anti-Corruption Commission, which continues to be operational.</p> <p>In addition to the increased number of investigations noted above, there have also been reports of ongoing investigations into the actions of some former state officials.</p> <p>The government has also recently enacted the Government Resolution No. 12/2019, of March 13, 2019, approving a Code of Conduct for the current members of government (i.e. the VIII Constitutional Government). The intention of this Code is to offer clear guidance on how members of government should behave, as well as a laying down the principles applicable to their conduct. It includes clear rules and limits on permitted offers, including attendance to entertainment events and trips.</p>
Participation in International Anti-Corruption Conventions	OECD Convention	No
	UNCAC	Yes (National Parliament Resolution No. 25/2008, of December 10, 2008)
Last Updated		June 21, 2019

Region		Asia Pacific
Country		Vietnam
2018 CPI	Rank	117/180
	Score	33
The Law on Bribery	Bribery of Domestic Officials	<p>The Penal Code of 2015 as amended by Law No. 12/2017/QH14 dated June 20, 2017, which took effect on January 1, 2018 (“Penal Code 2015”) and the Anti-Corruption Law of 2018 which took effect on July 1, 2019 (“Anti-Corruption Law 2018”) both contain provisions relating to corruption. Anti-Corruption Law 2018 regulations focus on how to prevent corruption (i.e., how the governmental bodies will be structured and preventive measures to avoid corruption, and the principles and obligations of state authorities as well as individuals to prevent corruption, etc.), while Penal Code 2015 focuses on the applicable criminal punishments.</p> <p>Under Penal Code 2015, it is a crime to give, receive, or broker bribes, and a person will be considered to have committed the following crimes if such person meets certain conditions:</p> <p><u>Offering a bribe:</u> A person who offers a bribe with a value of VND 2 million or more or an intangible benefit commits a violation of Article 364 of Penal Code 2015. Although not explicit in the code, it is implied (in consideration of Article 3.2 of the Anti-Corruption Law 2018) that the bribe must be given to someone with power or a position in either a governmental, public, or private entity. Penal Code 2015 is not clear as to what constitutes an “intangible benefit.”</p> <p><u>Receiving a bribe:</u> According to Article 354 of Penal Code 2015, it is a crime if: (i) the recipient of the bribe has power or a position and takes advantage of such power or position; (ii) receives and accepts a bribe of VND 2 million or more, or accepts a bribe of less than VND 2 million but is subject to disciplinary penalty or convicted of certain crimes under Penal Code 2015, or accepts an intangible benefit; and (iii) performs or omits a performance based on the bribe.</p> <p><u>Facilitating a bribe:</u> One who facilitates bribes may be prosecuted under Penal Code 2015 if the bribe is related to a corrupt act.</p> <p>Individuals may be subject to capital punishment, imprisonment (life or fixed-term), a monetary fine up to five times the value of the bribe, and prohibition from holding certain jobs for a period of time.</p> <p>For purposes of Anti-Corruption Law 2018, “corrupt acts” include, among others, the following: (i) embezzling properties; (ii) taking bribes; (iii) abusing power or a position to appropriate properties; (iv) taking advantage of power or a position while performing tasks or official duties for an undue benefit; (v) abusing power while performing tasks or official duties for an undue benefit; (vi) taking advantage of power or a position to influence others for self-seeking interests; (vii) committing forgeries in work for self-seeking interests; (viii) offering bribes or brokering bribes; (ix) taking advantage of power or a position to illegally use state properties for an undue benefit; (x) harassment for an undue benefit; (xi) failure to perform tasks or official duties for an undue benefit; (xii) taking advantage of power or a position to cover up law violators for an undue benefit; and (xiii) illegally hindering or intervening in examinations, inspections, audits, investigations, prosecutions, adjudications, or judgment executions for an undue benefit.</p> <p><u>Corporate liability:</u> There is no criminal liability for companies. Under Article 1.II.2(b) of Decision 445/2010/QD-TTg promulgating a master plan of implementation of the UNCAC in Vietnam (“Decision 445”), it appears that the Vietnamese Government is planning “to additionally define legal persons as the subject of acts of corruption.”</p>
	Bribery of Foreign Officials	<p>Penal Code 2015 criminalizes the act of offering a bribe to foreign officials (e.g., a foreign official or official of a public international organization).</p> <p>While the language of Anti-Corruption Law 2018 is silent on bribery of foreign officials, the common approach is to understand foreign bribery as beyond the scope of the law.</p>

	Commercial Bribery	Penal Code 2015 criminalizes bribery in the private sector, which is subject to the same crimes applicable to bribery in the public sector. Anti-Corruption Law 2018 now also regulates corrupt acts in private sector focusing on public companies, credit institutions, and social organizations. Furthermore, under Anti-Corruption Law 2018, definition of “person with positions and/or power” who may be considered as receiving or being offered bribes is broadened to cover person holding managerial positions in enterprises and organizations.
Definitions	Government Employee	Under Article 3.2 of Anti-Corruption Law 2018, “persons with positions and/or power” is defined as a person being designated, elected, employed, contracted, or otherwise, with or without any remunerations, to perform certain duties and to be delegated certain power during the performance of his/her duties. Such persons as government employees may include public officials (elected or appointed to office), civil servants (on the government’s payroll), army or police officers, persons representing state-owned capital in enterprises, and persons holding managerial positions in state-owned enterprises.
	Gratification (Gifts/ Entertainments/ etc.)	<p>“Gifts” are broadly defined and may include money, property, and other material interests. Decision No. 64/2007/QĐ-TTg, as amended by Decree No. 29/2014/ND-CP, contains the Regulations on Giving, Receiving, and Returning Gifts Applicable to Bodies, Organizations, and Units Funded by the State Budget, and Public Officials and Civil Servants and provides guidelines on the gifts that officials may accept.</p> <p>Unacceptable gifts are those from organizations or individuals who are under the management of or who are involved in activities under the authority of the official, given without reason, or intended as a bribe.</p> <p>Acceptable gifts are those with a value of less than VND 500,000 during certain holidays or under special circumstances.</p>
Current Status	Enforcement Body	<p>Under Chapter V of Anti-Corruption Law 2018, the followings are the relevant state agencies which assist in the detection and investigation of individuals engaging in corrupt practices:</p> <ul style="list-style-type: none"> • The Ministry of National Defense and the Ministry of Public Security have the responsibility to organize and direct the investigation of corruption-related crimes; • The People’s Procuracy and the People’s Courts have the responsibility to organize and direct the prosecution and judgment of corruption-related and other crimes. <p>In addition, the following are other relevant agencies:</p> <ul style="list-style-type: none"> • The Steering Committee for Anti-Corruption, which was established by the Ministry of Politics and led by Nguyen Phu Trong, the General Secretary of Vietnam’s Communist Party, in accordance with Decision 162/QĐ-TW of February 1, 2013. Its duties include the direction, coordination, inspection, and advancing of anti-corruption activities. • The Government Inspectorate has the responsibility to organize, direct, and guide the inspection of the observance of legal provisions on corruption prevention, and in the case that corrupt acts are detected, to request competent agencies or organizations to handle such conduct. It is also working jointly with the World Bank on the Vietnam Anti-Corruption Initiative Program 2011. • The State Audit of Vietnam is in charge of organizing audits to prevent, detect, and coordinate the handling of corruption cases.
	Issues in Enforcement	<ul style="list-style-type: none"> • Criminal penalties apply to bribes above VND 2 million, or below VND 2 million in certain circumstances, or in the case of an intangible benefit. • Lack of an independent body specialized in fighting corruption; the specialized anti-corruption units in the People’s Procuracy, the Ministry of Public Security, and the Government Inspectorate are subject to the influence of high-ranking officials. • The judiciary is not sufficiently independent and may itself be corrupt.

		<ul style="list-style-type: none"> • Lack of whistleblower measures and lack of cooperation from citizens. • Approximately half of the Vietnamese companies that participated in an anti-corruption survey reported that they have had to bribe officials in order to do business.
	Recent Movement	<p>Anti-Corruption Law 2018 took effect on July 1, 2019, and the government is drafting its sub-law interpretative regulations. The followings, among others, are introduced under these regulations:</p> <ul style="list-style-type: none"> • Definition of “person with positions and/or power” is broadened to cover not only person in public sectors but also those holding managerial positions in private enterprises and organizations; • Public companies, credit institutions, and social organizations must prepare internal code of conducts on, among others, conflict of interest and reporting mechanism; • New corruption-related violations (other than corrupt acts) are introduced which include, among others, breach of code of conducts on conflict of interests and reporting obligations; • Head and deputy head of public companies, credit institutions, and social organizations may be directly responsible for corrupt acts committed by persons under their management or occurred in sectors of which they are in charge. <p>Vietnam recently has made efforts to tighten enforcement of anti-corruption. There have been more and more high-ranking government officials being probed and prosecuted for, among others, receiving bribes.</p>
Participation in International Anti-Corruption Conventions	OECD Convention	No (endorsement of the Action Plan on July 13, 2004)
	UNCAC	<p>Signed December 10, 2003</p> <p>Ratified June 30, 2009</p> <p>(with reservations)</p>
Last Updated		June 14, 2019

Region		Europe
Country		Austria
2018 CPI	Rank	14/180
	Score	76
The Law on Bribery	Bribery of Domestic Officials	<p>In January 2013, the Austrian Criminal Code Amendment Act (also known as Anti-Corruption Law 2012) entered into force. Under the Austrian Criminal Code (“StGB”), the relevant regulations with regard to corruption can be divided into two groups:</p> <ul style="list-style-type: none"> • <u>Abuse of public power</u> (§302 StGB) (“<i>Amtsmissbrauch</i>”): This provision generally covers the knowing abuse of public power by officials of executive bodies (“<i>Beamte</i>”). The goal of this non-specific corruption provision is to guarantee the objective and impartial execution of Austrian law. Violations can therefore be committed by Austrian officials of executive bodies only. • <u>Special provisions against corruption</u>: The criminal charge for the following provisions may depend on whether the performance/non-performance of the official’s function is in accordance with or in conflict with his/her duties or if the bribe was given merely with the intent to influence the public official’s potential future activities. <p><u>Requesting or Accepting a Bribe:</u></p> <p>§304 <u>Public Sector Bribery</u> (“<i>Bestechlichkeit</i>”): Requesting or accepting a personal benefit or a benefit for a third person as a condition for the improper performance or omission of a public function by a public official (the definition of “public official” is described below). It is not required that the public official actually executes the intended improper performance or omission of a public function.</p> <ul style="list-style-type: none"> • Individuals: Violations are punishable by imprisonment for terms varying with the amount of advantage obtained, e.g., if the advantage is greater than EUR 50,000, up to 10 years’ imprisonment (same criminal sanctions for §307). <p>§305 <u>Acceptance of Benefits</u> (“<i>Vorteilsannahme</i>”): Requesting or accepting a personal benefit for a third person as a condition for the proper performance or omission of a business activity:</p> <ul style="list-style-type: none"> • Individuals: Violations are punishable by imprisonment for terms varying with the amount of advantage obtained, e.g., if the advantage is greater than EUR 50,000, up to five years’ imprisonment (same criminal sanctions for §307a). <p>§306 <u>Acceptance of Benefits with the Intention of being Influenced</u> (“<i>Vorteilsannahme zur Beeinflussung</i>”): Requesting or accepting a personal benefit or a benefit for a third person as a condition for exerting influence on a business activity.</p> <ul style="list-style-type: none"> • Individuals: Violations are punishable by imprisonment for terms varying with the amount of advantage obtained, e.g., if the advantage is greater than EUR 50,000, up to five years’ imprisonment (same criminal sanctions for §307b). <p><u>Offering or Promising a Bribe:</u></p> <p>§307 <u>Public Sector Bribery</u> (“<i>Bestechung</i>”): Offering or promising to a public official or a third person a financial or other benefit with the intention to induce the public official to improperly perform a public function.</p> <p>§307a <u>Granting of Benefits</u> (“<i>Vorteilszuwendung</i>”): Offering, promising, or giving to a public officer or a third person an undue benefit in favor of such public official properly performing or omitting the performance of a public function.</p> <p>§307b <u>Granting of Benefits with the Intent to Influence</u> (“<i>Vorteilszuwendung zur Beeinflussung</i>”): The intentional offering, promising, or giving of an undue benefit to a public official or a third person on the condition of influencing the public activity of the public official. Since 2013, it constitutes a punishable offense to provide a benefit or an undue advantage to a public official (or arbitrator) with the intention of influencing a</p>

		<p>future activity of the public official, regardless of whether this relates to an already specified official act.</p>
	<p>Bribery of Foreign Officials</p>	<p>The bribery of foreign officials is prohibited under the same provisions of the Austrian Criminal Code that criminalize the bribery of domestic officials. In addition, the granting of improper benefits and the granting of undue advantages for the purpose of influencing non-Austrian public officials abroad by Austrians constitutes a punishable offense in Austria, regardless of whether the act is an offense under the law of the foreign state in question. If bribery under the provisions of §§302-209 was committed abroad and the offender was an Austrian citizen when committing the crime, or the bribery was committed for the benefit of an Austrian public official, this act constitutes a crime under Austrian law regardless of whether it constitutes an offense under the law of the foreign state where the offense was committed (s §64 (1) (2a) StGB).</p> <p>However, with regard to §302 StGB, only Austrian officials of executive bodies can commit an abuse of power.</p>
	<p>Commercial Bribery</p>	<p>In January 2013, the provisions with regard to commercial bribery were revised to increase the criminal sanctions (raised to up to five years' imprisonment). The former §§168d (offering a bribe) and 168c (receiving a bribe) were also revised; both forms of corruption with regard to commercial bribery are now covered by §309, described below.</p> <p><u>Offering a bribe (§309 para 1 StGB) and receiving a bribe (§309 para 2 StGB):</u> The Austrian Criminal Code prohibits both giving and receiving commercial bribes. Commercial bribery requires the offering or promising of a personal advantage to an employee of a company in return for an improper business activity. However, if the benefits are conferred in return for the proper performance of one's duties, it is not considered to be bribery. In contrast, conferring benefits on a public official constitutes bribery even if the benefits were conferred for the proper performance of official duties.</p> <ul style="list-style-type: none"> • Individuals: violations are punishable by terms of imprisonment that vary with the amount of the advantage (e.g., if the advantage exceeds EUR 50,000, up to five years' imprisonment). • Corporate entities: violations are punishable by fines of 15 to 20% of annual revenue. <p><u>Acceptance of gifts/benefits by agents (§153A "Geschenkannahme durch Machthaber"):</u> In the private sector, it is prohibited for representatives of another person or legal entity to accept a non-negligible gift or benefit (i.e., valued at more than EUR 100) and, contrary to their duties, to not hand it over to the legal entity or person they represent. As long as the acceptance of the gift is not permitted by the employer, it is irrelevant if the representative actually utilizes his/her representative power in exchange for the benefit received—the acceptance of the benefit is the penalized action which can be punished by imprisonment for up to one year.</p> <p>Since 2013, action against commercial bribery can be taken by the Public Prosecutor's Office for Economic Crime and Corruption ("WKSTA") as well as by the police. As a result, the offense will no longer be subject to private criminal action where the plaintiff had to prosecute the crime and provide evidence for it.</p> <p><u>The Lobby and Interest Representation Transparency Act (Lobbying und Interessensvertretungs-Transparenz Gesetz; Federal Law Gazette I 64/2012):</u> Under this act, which entered into force in January 2013, lobbying activities, i.e., any organized and structured contact with functionaries with the aim to directly influence specific decision-making processes in the legislation or administration of a nation, province, municipality, or local authorities association, have to be registered in the Lobby and Interest Representation Register ("Lobbying-und Interessensvertretungs-Register") disclosing certain data about the business and its lobbyists and fields of activity.</p> <p>In addition, all persons and legal entities involved in lobbying are obligated to comply with a mandatory Code of Conduct. The violation of registration obligations or of the mandatory Rules of the Code of Conduct constitutes an administrative offense (fines up to EUR 20,000). In the case of serious violations, the lobbying activities can be prohibited and the registration will be deleted.</p>

		Agreements with unregistered professional lobbyists and unregistered lobbying assignments will be deemed null and void.
Definitions	Government Employee	<p>The definition of “public officials” under the Criminal Code includes (§74 para. 1 4(a)):</p> <ul style="list-style-type: none"> • A member of an Austrian public representative body (as long as he/she votes or exercises his/her duties); • Anyone performing legislative, administrative, judicial, or any other official government functions for Austria, a foreign state, or an international organization; • An employee of an entity which is controlled by the General Accounting Office (“<i>Rechnungshof</i>”) or other similar bodies in Austria, which mainly provide services to the institutions mentioned in the above paragraph; and • Any organ of a company and any person working on the basis of an employment contract for such company: (i) in which one or more Austrian or foreign regional administrative authorities directly or indirectly hold(s) at least 50% of the nominal, share, or equity capital; (ii) which is actually controlled by Austrian or foreign regional administrative authorities; or (iii) the activities of which are subject to inspection by the Austrian Court of Audit or similar provincial institution or international or foreign monitoring institution. <p>Some public officials are partially immune under the definition in the Criminal Code.</p> <p>Employees of state-owned companies are included only if they fall into one of the above-listed categories.</p>
	Gratification (Gifts/ Entertainments/ etc.)	<p>All forms of benefits and personal advantages, including gifts, travel, and entertainment, may be deemed bribery if given in connection with the performance or non-performance on the part of the recipient. In general, small gifts and other gratuities given without an exchange of favors are acceptable and are not considered bribes. Since 2013, advantages that are not considered bribes are defined as follows (§305 para 4): (i) a benefit that is legally allowed or given at an event at which the public official’s attendance is officially or objectively justified; (ii) a benefit for charitable purposes, for the use of which no determining influence is exercised upon the public official; or (iii) local or regionally customary small benefits of minor value, unless such benefits are granted on a professional basis.</p>
Current Status	Enforcement Body	<p>Austria has two specialized anti-corruption enforcement agencies.</p> <p>The Public Prosecutor’s Office for Economic Crime and Corruption investigates and prosecutes malpractice, corruption and other economic crimes with a value of over EUR 5 million.</p> <p>The Federal Bureau of Anti-Corruption (“BAK”) under the Federal Ministry of the Interior has jurisdiction over police investigations concerning criminal offenses, and is an international contact responsible for cases that require international police cooperation.</p>
	Issues in Enforcement	<ul style="list-style-type: none"> • Partial immunity for certain public officials as defined in the Criminal Code. • Rampant corruption in lobbying activities (but see the description of the Lobby and Interest Representation Transparency Act in the “Commercial Bribery” section above). • A high number of unreported cases of bribery. However, the provisions with regard to the leniency notice (“<i>Kronzeugenregelung</i>”; §209a StPO; Code of Criminal Procedure), which provide immunity for the offender if he/she discloses information that is decisive in detecting and investigating undiscovered corruption cases, are increasingly encouraging offenders to cooperate with the enforcement authorities.
	Recent Movement	<p>As of January 1, 2017, certain amendments to the Austrian Criminal Code entered into force (Austrian Criminal Code Amendment Act, published in the Federal Law Gazette under No. 121/2016), whereby the provisions with regard to leniency notice, were revised. An offender who has committed a serious criminal offense has the right to seek a reduced sentence and/or termination of criminal proceedings if he/she voluntarily and with remorse reveals</p>

		<p>his/her offense and fully discloses his/her knowledge regarding new circumstances and/or evidence, provided that the confession considerably contributes to the resolution of the offense or to the prosecution of other offenders. The purpose of this revision is to make the leniency notice a more attractive option.</p> <p>The Austrian Supreme Court recently decided on the controversial issue of whether a bribe by a company’s representative aimed at obtaining a benefit for such company could constitute a breach of trust under which the individual could be criminally liable for financial harm to the company under abuse of the power of representation, per §153 StGB (“<i>Untreue</i>”). §153 StGB covers the abuse of the power by a company’s representative with the intention to harm the represented legal entity. As bribery is in most cases is used to obtain an advantage for the represented legal entity (such as in exchange for legal permits or other benefits), this provision does not apply to bribery in the private sector. The Austrian Supreme Court confirmed that if such benefits are granted to an executive official in order to obtain dutiful actions, it would not constitute a violation of §309 StGB (as this would require improper business activity) nor of §153 StGB (if, as in the case decided, the represented legal entity was not harmed because of the increase in value of the intended project due to the received legal permit). Austrian Supreme Court 26.02.2019, 17 Os 8/18g.</p>
<p>Participation in International Anti-Corruption Conventions</p>	<p>OECD Convention</p>	<p>Yes</p>
	<p>UNCAC</p>	<p>Signed December 10, 2003 Ratified January 11, 2006</p>
<p>Last Updated</p>	<p>June 6, 2019</p>	

Region		Europe
Country		Belgium
2018 CPI	Rank	17/180
	Score	75
The Law on Bribery	Bribery of Domestic Officials	<p>Bribery of domestic officials is governed by Articles 246 to 249 of the Belgian Criminal Code (hereafter, “BCC”) which prohibit both active and passive corruption:</p> <ul style="list-style-type: none"> • <u>Active bribery</u> (offering a bribe): defined as inducing a public official, directly or through intermediaries, to carry out or refrain from carrying out an act relating to his/her position (as further described in Article 247 BCC), by making him/her offers or promises, or by offering him/her any advantage of any kind, for himself/herself or for a third party. • <u>Passive bribery</u> (receiving a bribe): defined as where a public official, directly or through intermediaries, solicits, accepts, or receives offers, promises, or any advantage of any kind (for himself/herself or for a third party), in order to carry out or refrain from carrying out an act relating to his/her position (as further described in Article 247 BCC, as amended by the law of February 5, 2016). <p><u>Applicable penalties:</u> Six months to five years’ imprisonment (depending on the circumstances of the crime, as described in Article 247 BCC) and a fine.</p> <p><u>Aggravated penalties applicable to:</u></p> <ul style="list-style-type: none"> • Police officers and members of the public prosecutor’s office: penalty is double the “standard” penalty. • Arbitrators: penalty of up to three years’ imprisonment and a fine. • Judges acting in their jurisdictional functions: penalty up to 10 years’ imprisonment and a fine.
	Bribery of Foreign Officials	When bribery as provided for in articles 246 to 249 BCC relates to a public official of a foreign state or of an organization of public international law, the minimum fines are multiplied by a factor of three and the maximum fines by a factor of five (Article 250 BCC, as amended by the law of February 5, 2016).
	Commercial Bribery	<p>Commercial bribery is governed by articles 504 <i>bis</i> (as amended by the law of February 5, 2016) and 504 <i>ter</i> BCC which prohibit both active and passive corruption:</p> <p><u>Active bribery</u> (offering a bribe): defined as inducing a director or a manager of a company or an agent or employee of a company or of a natural person, directly or through intermediaries, to carry out or refrain from carrying out an act relating to his/her position, by making him/her offers or promises, or by offering him/her any advantage of any kind (for himself/herself or for a third party), without prior knowledge and authorization of, depending on the case, the board of directors, the General Assembly, the principal, or the employer.</p> <p><u>Passive bribery</u> (receiving a bribe): defined as where a director or a manager of a company or an agent or an employee of a company or of a natural person, directly or through intermediaries, solicits, accepts, or receives offers, promises, or any advantage of any kind (for himself/herself or for a third party) in order to carry out or refrain from carrying out an act relating to his/her position, without prior knowledge and authorization of, depending on the case, the board of directors, the General Assembly, the principal, or the employer.</p> <p><u>Applicable penalties:</u> Six months to two years’ imprisonment and/or a fine.</p>
Definitions	Government Employee	<u>Public officials</u> are individuals exercising a public service function. This notion is broadly interpreted and covers any civil servants (at the federal, regional, or municipal level), persons exercising a public service function by election (e.g. members of the Parliament), notaries public, bailiffs, judges, and clerks of the courts.

		Individuals who are candidates for a public function or who pretend that they will exercise such public function also qualify as public officials (Article 246 §3 BCC).
	Gratification (Gifts/ Entertainments/ etc.)	Bribery under Belgian law is broad and covers offers, promises, and any advantage of any kind (even if non-pecuniary) proposed, accepted, or received as consideration intended to have the person carry out or refrain from carrying out an act relating to his/her position or function. Also covered: the offers, promises, or advantages given to a third party (e.g., a relative of the public official).
Current Status	Enforcement Body	Local and Federal Police—Public Prosecutor’s offices <u>Anti-corruption agencies:</u> <ul style="list-style-type: none"> • Central Office for combating Corruption (“OCRC”—Federal police) • Bureau of Ethical Administrative Conduct (SPF Budget and Management Control)
	Issues in Enforcement	In the Progress Report 2018 on the enforcement of the OECD Anti-Bribery Convention, Transparency International summarizes the current issues as follows: “The OECD WGB [Working Group on Bribery] criticized the dual criminality requirement imposed by article 10 quarter, §2 of the Belgian Code of Criminal Procedure. The WGB noted, inter alia, that it means that Belgium cannot prosecute if foreign bribery is not a criminal offence in the country where it is committed and requires the prosecuting authorities to produce an additional element of proof. The OECD WGB also found insufficient opportunities to suspend the statute of limitations to allow adequate time to conduct foreign bribery investigations and prosecutions. (...) According to the WGB, private-sector whistleblower protection is inadequate. It must also be noted that Belgium has not adopted any specific regulatory legislation on the prevention of corruption which would apply to the private sector. (...)” According to the OECD WGB in 2013 and 2016, there is insufficient transparency in out-of-court criminal settlements. (...)” There are inadequate resources for law enforcement and judicial authorities to prosecute international bribery. This is notable given the important caseload linked to transnational corruption cases involving European officials referred to the Belgian authorities by OLAF [European Anti-Fraud Office].” In its March 2018 Interim Compliance Report, the Group of States against Corruption (“GRECO”) concludes that Belgium has only partially implemented the GRECO recommendations to strengthen the prevention of corruption in respect of members of Parliament, judges and prosecutors. According to GRECO : “the current level of compliance with the recommendation remains “globally unsatisfactory” within the meaning of Rule 31, paragraph 8.3 of the Rules of Procedure.”
	Recent Movement	The law of February 5, 2016, contains several amendments relating to anti-bribery, including a revision of the definition of public and private “passive” bribery, and a substantial increase in mandatory criminal fines for public corruption of foreign public officials. This law entered into force in February 2017, formally creating a Central Register of Criminal Records for Legal Persons. Belgium affirmed in 2017 its intention to increase the number of specialized investigators and prosecutors with a view, among others, to improving the fight against corruption.
Participation in International Anti-Corruption Conventions	OECD Convention	Yes. Belgium has ratified the OECD Convention of December 17, 1997, by the law of June 9, 1999. Belgium has amended the BCC by the law of May 11, 2007, in order to implement certain recommendations mentioned in the report on Belgium (phase 2 of 2005).
	UNCAC	Signed December 10, 2003 Ratified September 25, 2008
Last Updated		June 12, 2019

Region		Europe
Country		France
2018 CPI	Rank	21/180
	Score	72
The Law on Bribery	Bribery of Domestic Officials	<p>French law punishes both giving bribes (“active bribery”) and receiving bribes (“passive bribery”). Bribery carries with it the potential for serious criminal penalties and sanctions, including imprisonment.</p> <ul style="list-style-type: none"> • <u>Active bribery</u>: illegally making, directly or indirectly, any offers, promises, donations, gifts, or advantages to a person so that he/she carries out or abstains from carrying out an act pertaining to his/her office, job, or mandate. • <u>Passive bribery</u>: illegally requesting or accepting offers, promises, donations, gifts, or advantages in order to carry out or abstain from carrying out an act relating to one’s public or private job or position. • <u>“Trafficking in influence”</u>: making directly or indirectly any offers, promises, donations, gifts, or rewards to a person so that he/she unlawfully abuses his/her real or alleged influence, with a view to obtaining distinctions, employment, contracts, or any other favorable decision from a public authority or administration. <p>The French Criminal Code (“Criminal Code”) as well as the French Code of Criminal Procedure (“Criminal Procedure Code”) were amended in 2007 to ensure that French law is consistent with France’s international commitments, and in particular with the OECD Convention. In May 2011, the law was clarified to state that bribes paid after (as opposed to before) the influenced action are equally illegal (i.e., it is now clear that an after-the-fact “thank you” gift is just as illegal as a bribe paid to influence an act in the future).</p> <p>Bribery with respect to French “national public officials” (giving or receiving) is prohibited. A “national public official” is a person who holds public authority or discharges a public service mission, or an elected official. (Active bribery: Article 433-1; passive bribery: Article 432-11; active trafficking in influence: Articles 433-1 and 433-2; passive trafficking in influence: Articles 432-11 and 433-2 of the Criminal Code). Judges, prosecutors, jurors, or any other person entrusted with a similar role, an arbitrator, or an expert appointed either by a court or by the parties, or a person appointed by a judicial authority to carry out conciliation or mediation can also be found liable for bribery and trafficking in influence (Active bribery: Article 434-9; passive bribery: Article 434-9; active trafficking in influence: Article 434-9-1; passive trafficking in influence: Article 434-9-1 of the Criminal Code). Such infractions rise to the level of “obstruction of justice.”</p>
	Bribery of Foreign Officials	<p>France ratified the OECD Convention on July 31, 2000, and it was implemented along with the Convention on the Fight Against Corruption Involving Officials of the European Communities or Officials of Member States of the EU (Convention on European Officials) signed on May 26, 1997, into French law by way of Criminal Act No. 2000-595 (2000), which amended the Criminal Code and the Criminal Procedure Code to prohibit bribery of foreign public officials. The original legislation was subsequently amended in 2007 by the Anti-Corruption Act of November 13, 2007 (the Anti-Corruption Act No. 2007-1598 of November 13, 2007 published in JORF No. 264 of November 2007, page 7, the “2007 Act”).</p> <p>The law prohibits active and passive bribery of a public official of a foreign state or international organization (passive bribery: Article 435-1; active bribery: Article 435-3) or judicial staff (passive bribery: Article 435-7; active bribery: Article 435-9) as well as active and passive trafficking in influence with officials of international organizations and public officials of a foreign state (added by the Sapin II law) (passive trafficking in influence: Article 435-2; active trafficking in influence: Article 435-4) and judicial staff (passive trafficking in influence: Article 435-8; active trafficking in influence: Article 435-10).</p> <p>The 2007 Act also created two new infractions regarding bribery of a witness in a foreign or international judicial procedure (Article 435-12) and threats against or intimidation of foreign or international judicial staff (Article 435-13) which are counterparts to the domestic infractions in the field.</p>

	<p>Commercial Bribery</p>	<p>Articles 445-1 and 445-2 of the Criminal Code address bribery in the private sector. These provisions are inspired from those applicable to corruption of public officials and punish active (giving) (Article 445-1) and passive (receiving) (Article 445-2) bribery of an individual or a legal entity.</p> <p>As with the provisions applicable to bribery of public officials, the definition of the offense is broad, encompassing any person who holds a management position or performs a job for an individual or any organization. As a result, any of the following persons can be found liable: employees, the top management of a company, and even professionals, such as lawyers, doctors, and accountants.</p> <p>Finally, the Commercial Code prohibits bribery of shareholders and bondholders (Articles L. 242-9, 3° and L. 245-11 of the Commercial Code).</p> <p><u>Corporate liability:</u></p> <p>If a representative or representative body of a company or other legal entity has engaged in bribery, the company or other legal entity may be held cumulatively liable under certain circumstances.</p>
<p>Definitions</p>	<p>Government Employee</p>	<p>At the national level, public officials are persons holding public authority or discharging a public service mission, or persons holding an elected public office.</p> <p>At the international level, public officials are persons holding public authority, discharging a public service mission, or vested with an elected public office in a foreign state or a public international organization; persons vested with judicial powers in a foreign state or an international court; clerks working for a foreign or international court; experts or mediators appointed by a foreign or international court; or arbitrators whose mission is governed by the laws of a foreign state.</p> <p>Since 2010, the infraction of bribery expressly covers persons working for the International Criminal Court (see Article 434-23-1 of the Criminal Code).</p> <p>Article 435-5 of the Criminal Code also specifies that all organizations created in accordance with EU Treaties are considered to be public international organizations for the enforcement of Section 1 offenses, entitled “offenses against the public administration.”</p>
	<p>Gratification (Gifts/ Entertainments/ etc.)</p>	<p>“Bribery” under French law is broad and covers offers, promises, donations, gifts or advantages that are offered, solicited, or accepted in order to carry out or abstain from carrying out an act pertaining to one’s public or private job or position. Attempts to bribe are therefore included in the definition.</p> <p>The notion of “offers, promises, donations, gifts, or advantages” is broadly interpreted by French courts and can include a dinner with material gifts, the use of an apartment, a cruise, and other advantages.</p>
<p>Current Status</p>	<p>Enforcement Body</p>	<p>Six authorities are in charge of fighting corruption on a national level:</p> <ul style="list-style-type: none"> • “Tracfin” was established in 1990; Article L. 561-15-1 of the French Monetary and Financial Code compels some professionals to report atypical financial transactions to Tracfin, which can then transfer the information to an investigating authority. • The French Anti-Corruption Agency was created by the Sapin II law and replaced the “<i>Service Central de Répression de la Corruption</i>.” It is headed and represented by Charles Duchaine, a judge appointed by the President of France for a six-year term. One of the main missions of the agency is to assist entities with implementing a compliance program, as required by the Sapin II Law. The agency is also empowered to exercise inspection over the reality and the efficiency of the anti-corruption compliance programs implemented by companies. In addition, the agency includes a “Sanctions Commission” empowered to impose penalties on noncompliant individuals and companies. The French Anti-Corruption Agency is described in more detail in the “Recent Movement” section below. • The Police and Gendarmerie (national military police). The 2007 Act also significantly expanded the investigative powers of French authorities by allowing the use of surveillance and undercover measures, telephone tapping in the investigation phase, as well as audio and video recording in certain locations or vehicles and allowing the use

		<p>of preventive measures that, prior to the amendments, were used only in cases involving organized crime.</p> <ul style="list-style-type: none"> • The “<i>Brigade nationale de lutte contre la corruption et la criminalité financière</i>” has the authority to initiate investigations and handle corruption cases. • The “<i>Procureur de la République financier</i>” is exclusively in charge of prosecuting allegations of corruption as well as financial and tax offenses.
	<p>Issues in Enforcement</p>	<p>As part of the Evaluation on “incriminations provided in the Criminal Law Convention on Corruption, its Additional Protocol and Guiding Principle 2 and transparency of party funding” with respect to France, the Group of States against Corruption of the Council of Europe (“GRECO”) issued the Third Evaluation Report on March 12, 2009, including a list of recommendations to be adopted.</p> <p>On March 12, 2015, GRECO published the Second Interim Compliance Report on France. GRECO concluded that France had satisfactorily implemented only five of the 17 recommendations contained in the Evaluation report. As for the remaining recommendations, 10 of them had been partly implemented and two had not yet been implemented. GRECO consequently concluded that the level of implementation of the recommendations remained “globally unsatisfactory.”</p> <p>On September 28, 2017, GRECO concluded in a final report that France had implemented a total of 12 of the 17 recommendations and that the five pending recommendations had been partly implemented (see paragraphs 6, 71, and 75 of the Addendum to the Second Compliance Report on France, part of the Third Evaluation Round of France).</p> <p>In the context of the Fourth Evaluation Round of France, GRECO published a final report on September 18, 2018, regarding the implementation of the recommendations dealing with “Corruption prevention in respect of members of the Parliament, judges and prosecutors”. The report concluded that France had satisfactorily implemented four of the 11 recommendations contained in the Evaluation Report. Of the remaining recommendations, four had been partly implemented and three had not been implemented. As a result, GRECO concluded that the level of compliance with the recommendations remained “globally unsatisfactory.”</p>
	<p>Recent Movement</p>	<p>Pursuant to law n° 2013-907 dated October 11, 2013, a High Authority for Transparency in Public Life has been established to ensure the integrity of French public officials. Indeed, 25 years after the first legislation related to financial transparency, the Parliament considered the need to implement a comprehensive strategy designed to meet the requirements of an open government and a modern democracy. The general mission of this High Authority is to control assets, prevent conflicts of interest, ensure transparency, and make the public life of officials more open, accountable, and responsive to citizens.</p> <p>On December 6, 2013, a law regarding the fight against tax fraud and economic and financial crime came into force and modified numerous provisions of criminal law and criminal procedure:</p> <ul style="list-style-type: none"> • Measures which were in the past applicable only to organized crime (undercover, interception of mail, etc.), can be used for certain offenses of corruption and trafficking in influence (Article 706-1-1 of the Criminal Code). • The law has increased the potential penalties: <ul style="list-style-type: none"> ○ An individual convicted of bribery and trafficking in influence involving officials or the private sector faces a maximum of five to 10 years’ imprisonment as well as a fine from EUR 500,000 to EUR 1 million, depending on the offense. ○ <u>Specific sanctions for legal entities can be imposed</u>: fines up to five times the maximum amount of the fines for individuals, i.e., up to EUR 5 million or 10 times the proceeds deriving from the offense. ○ The amount of the fine may be increased to twice the amount of the proceeds deriving from the offense.

- The law expands the notion of self-reporting for certain corruption and trafficking in influence offenses. These provisions allow for a reduction in punishment as a reward for reporting offenses to the authorities (Article 324-6-1 of the Criminal Code).
- The law creates Article L. 1132-3-3 in the Labor Code, which protects employees from any sanctions for allegations made in good faith on criminal activities witnessed in the workplace or during the carrying out of the employee's functions. Hence, the previously mentioned law of December 6, 2013, provides protections for whistleblowers.
- A Financial Public Prosecutor has been established to initiate criminal proceedings and prosecute complex offenses in corruption and trafficking in influence cases. The Financial Public Prosecutor has exclusive jurisdiction for market offenses and concurrent jurisdiction alongside other prosecutors for corruption offenses, tax fraud and money laundering. This prosecutor's office has grown and has been the subject of increased media coverage.
- The law provides that associations fighting corruption are entitled to bring criminal actions to obtain damages (Article 2-23 of the Criminal Procedure Code).

In December 2014, the OECD Working Group on Bribery adopted its summary of and conclusions to France's Written Follow-Up Report that it had submitted to the working group in October 2014. The Written Follow-Up Report was in response to the working group's Phase 3 evaluation of France conducted in October 2012. The working group's summary and conclusions noted that since the Phase 3 evaluation: (i) "France has opened 24 new procedures involving the bribery of foreign public officials but no legal person has yet been convicted of this offense"; (ii) "only three more individuals have been convicted in two cases, resulting in fines ranging from EUR 5,000 to EUR 20,000"; and (iii) "the number of acquittals, dismissals, and case closures has risen significantly, [from 12 to 31] (including 11 new decisions in favor of legal entities)" (see paragraph 1 of OECD Report: "France: Follow-Up to the Phase 3 Report & Recommendations," December 2014).

As shown above, the OECD and other international organizations have been quick to point out that France lags behind other countries in anti-corruption enforcement and needs to improve its efforts to fight corruption. As a result, on November 8, 2016, the French National Assembly adopted the Sapin II Law, ushering in a new era of anti-corruption enforcement in France. The law's main provisions are listed below:

(1) Preventive Provisions

Obligation for Major Companies to Implement a Compliance Program

Presidents, senior executives (*directeurs généraux*), and managing directors (*gérants*) of companies that (i) employ at least 500 employees or are part of a group with a parent company headquartered in France with at least 500 employees and (ii) have an annual turnover or consolidated annual turnover exceeding EUR 100 million, are required to put in place a corporate compliance program to prevent and detect corruption or trafficking in influence in France and abroad. Where the accounts of a company subject to the Sapin II Law's compliance obligations consolidate the accounts of subsidiaries and other "inspected" companies, the same obligations also apply to those subsidiaries and other "inspected" companies. The company is also liable if it fails to fulfill the obligation to implement a compliance program as required. These obligations entered into force on June 1, 2017.

Content of the Compliance Program

Such a compliance program must include:

- A corporate code of conduct defining and illustrating conduct to be avoided that constitutes corruption or trafficking in influence offenses. Such code of conduct should be appended to the company's internal rules and subject to the procedure of information and consultation of employee representatives, in accordance with article L. 1321-4 of the French Labor Code;
- An internal alert system to collect reports emanating from the company's employees on the existence of conduct or situations violating the company's code of conduct;
- A regularly updated risk map in the form of documentation intended to identify, analyze, and prioritize the company's risk exposure to external corrupt solicitations,

		<p>notably regarding the business sector and geographic area in which the company pursues its activities;</p> <ul style="list-style-type: none"> • Integrity REVIEW of clients, “first-tier” suppliers, and third parties in light of the risk map; • Internal or external accounting controls to ensure that the company’s records are not covering up corruption or trafficking in influence offenses; • Training for employees and managers who are the most exposed to risks of corruption and trafficking in influence; • A sanctions policy, including disciplinary actions against personnel found to have engaged in misconduct; and • Internal controls and evaluation of the measures implemented. <p>On December 21, 2017, the newly established French Anti-Corruption Agency issued recommendations to help entities implement compliance programs. For instance, the Anti-Corruption Agency recommends that companies’ governing bodies initiate a risk assessment and designate a compliance officer. The Anti-Corruption Agency also recommends that a risk map update should be considered each year.</p> <p>Although the French Anti-Corruption Agency has specified that its recommendations are non-binding, individuals and entities are advised to follow the recommendations. Should a president, senior executive (<i>directeur général</i>), managing director (<i>gérant</i>), or a member of a <i>Société Anonyme</i> board of directors fail to comply with his/her obligation to implement an adequate compliance program, the individual and the company could be subject to injunctions and financial penalties (up to a maximum of EUR 200,000 for individuals and EUR 1 million for companies). The decision imposing the injunction or penalty may be published or otherwise publicly disclosed.</p> <p>Creation of a French Anti-Corruption Agency</p> <p>As described above in the “Enforcement Body” section, the new French Anti-Corruption Agency was created pursuant to the Sapin II Law and was given broad supervisory powers relating to anti-corruption enforcement. Decree No. 2017-329 dated March 14, 2017, specifies the organization and mission of the agency. The agency will prepare a national plan over several years to combat corruption and trafficking in influence. It has the primary authority for ensuring the effective implementation of anti-corruption compliance programs by companies and may make recommendations to private and public sector entities on how to prevent and detect corruption and trafficking in influence offenses, including by organizing training sessions for those entities. As stated above, the agency includes an Enforcement Commission that may impose penalties on noncompliant individuals and companies.</p> <p>Approximately 1,500 entities may face an inspection by the French Anticorruption Agency, and the ambition is to inspect approximately 50 companies per year. The Agency has been quite active in the past two years and has already undertaken inspections of several dozen entities. These inspections have already shown that some companies are facing difficulties implementing the many provisions of the Sapin II Law. However, these outcomes demonstrate that the Agency is still showing restraint in dealing with these entities. Nevertheless, this level of tolerance is expected to be temporary, and companies failing to implement an effective compliance program may soon be sanctioned. Indeed, the Enforcement Commission’s first hearing was held on June 25, 2019, and targeted a large company operating in the electricity sector. The decision is expected to be released in the coming weeks.</p> <p>The latest report issued by the Agency reveals that many companies are having difficulties identifying the risks relating to their activities and thus establishing a comprehensive risk map in compliance with Sapin II law’s requirements. Furthermore, the report shows that the Agency is providing extensive support to companies. It also shows that the Agency has been highly active at the national level, with many publications, and at the international level, demonstrating its ambition to establish relations with foreign authorities in the fight against corruption.</p> <p>Reinforced Protection for Whistleblowers</p> <p>The Sapin II Law defines a “whistleblower” as follows: any individual who reveals or reports, selflessly and in good faith, a crime, offense, serious threat, or harm to the public interest, or serious and manifest breach of an international commitment duly ratified or</p>
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approved by France, a unilateral act of an international organization adopted on the basis of such commitment, or a law or regulation of which he/she has had personal knowledge.

The reporting procedure is strictly regulated by the law. A whistleblower must first alert his/her direct or indirect supervisor or another, specifically designated person to the conduct at issue. The person who receives this report must then check its “acceptability”—that is, determine: (i) whether the reporter in fact qualifies as a whistleblower under the Sapin II Law; and (ii) whether the prescribed reporting procedure has been followed. If no action is taken on the report within a reasonable time, the whistleblower may address the report to a public authority (i.e., judicial or administrative authorities or professional boards). And, in such cases, if the public authority involved does not take action on the report, the report may be disclosed to the public.

Private and public sector entities employing at least 50 employees have the obligation to implement such a procedure. According to Government Decree No. 2017-564 dated April 19, 2017, this procedure should have been implemented by entities starting January 1, 2018. In addition, the French National Commission for Data Protection and Liberties (“CNIL”) ruled that entities shall make a simplified declaration if they implement automated processing of personal data (see CNIL deliberation No. 2017-191 dated June 22, 2017). The Anti-Corruption Agency recommends that specific points be detailed in the alert procedure, including the role of the supervisor and the steps taken to ensure the strict confidentiality of the identity of the whistleblower and the individuals targeted.

Protection for Whistleblowers

Under the Sapin II Law, workplace retaliation against whistleblowers who convey information on alleged misconduct is strictly prohibited. Whistleblowers must not suffer any direct or indirect sanction or detrimental treatment as a result of raising a concern, even if the alleged facts turn out to be inaccurate or if no follow-up action has been taken.

However, matters of national security secrecy, medical secrecy, and legal privilege are not covered by the whistleblower provisions of the Sapin II Law and therefore cannot be disclosed. Finally, a whistleblower cannot be held criminally liable for disclosing a secret protected under French law, provided the disclosure is necessary and proportionate to safeguard the interests involved and complies with the aforesaid reporting procedures.

(2) Enforcement Provisions

The Extraterritoriality of French Anti-Corruption/Trafficking in Influence Legislation: Enlarging the Capacity for Prosecution

France’s existing domestic anti-corruption/trafficking in influence law is applicable to all prohibited conduct committed within the territory of France. An offense is deemed to have been committed within the territory of France if one of its constituent elements was committed within that territory. Under certain circumstances, however, France’s anti-corruption/trafficking in influence law can also reach conduct outside France. For example, the law is applicable to corruption or trafficking in influence outside France if the victim is a French national.

Under the Sapin II Law, the applicability of French law is no longer limited to corruption or trafficking in influence engaged in by French nationals outside France. It is now applicable to wrongful conduct outside France by “persons habitually residing in France” or “having all or part of their economic activity in France.”

As to wrongful conduct constituting corruption or trafficking in influence engaged in by French nationals outside France, the Sapin II Law removes the requirement that the conduct at issue be prohibited under the law of the country in which it was committed and also removes the requirement that the prosecution be instigated only at the behest of the Public Prosecutor. This provision notably expands the authority of French prosecutors to pursue French nationals acting abroad.

In addition, the law creates the offense of trafficking in influence in relation to foreign public officials.

Enhanced Penalties

Under the Sapin II Law, entities convicted on corruption or trafficking in influence grounds could be required to implement an anti-corruption compliance program under Agency supervision and bear all the compliance costs incurred. Those under Agency supervision

who continue to not fulfill their obligations with respect to corporate compliance programs would face additional fines (for individuals, a fine of up to EUR 50,000 and up to two years' imprisonment; for companies, a fine equivalent to that imposed for the underlying offense). Decisions imposing such additional penalties could be published or otherwise publicly disclosed, further highlighting the conduct and potentially damaging the reputations of the companies involved.

(3) Transactional Provisions

The Sapin II Law lays out a process by which the Public Prosecutor could consider the appropriateness of entering into a “judicial settlement of public interest” (“CJIP”) with a “legal person suspected” of corruption and trafficking in influence offenses. Such a settlement would allow companies to avoid a criminal conviction by:

- Paying a public interest fine to the Public Treasury. The amount of this fine is proportionate to the gains derived from the company’s wrongdoing, with the amount of the fine to be capped at 30% of the company’s average annual turnover over the past 3 years. Payment could be staggered by the Public Prosecutor over a period that cannot exceed a year; and/or
- Being subject to a compliance program for a 3 year maximum period under the inspection of the Agency.

Under the Sapin II Law, a CJIP can apply only to legal persons (where one of their organs or representatives is suspected of having committed the offense on the person’s behalf), not natural persons. Offenses committed by a mere employee, even on behalf of a legal entity, will therefore be excluded from the scope of the settlement. In other words, a CJIP is appropriate only where the conduct was engaged in by: (i) an employee—an organ or representative of the company—who, by virtue of his/her position and authority within the company, can act for and bind the company, or (ii) an employee who has been expressly granted a delegation of power.

The Public Prosecutor is entitled to bring the settlement to the court’s president for its final validation during a public hearing. Following this hearing, the court’s president would validate or invalidate the settlement by checking: (i) the appropriateness of resorting to a judicial settlement; (ii) the regularity of the process; (iii) the conformity of the fine’s amount to that permitted under the law (capped at 30% of the annual turnover of a company over the past three years); and (iv) the fine’s proportionality to the gains derived from the company’s wrongdoing. The decision of the court’s president cannot be appealed. Should the court’s president grant an order validating the settlement, the legal person would have a 10-day period to reject it. If the legal person were to accept the settlement, it would be bound to comply with the settlement’s obligations. If it were to refuse the settlement, the settlement would be null and void.

The order validating the settlement would not amount to a declaration of guilt and would not be in the nature, or have the effect, of a conviction. The settlement would not be registered as a criminal record. However, it would be disclosed by a press release. Furthermore, the fine amount, the president’s validating order, and the settlement would be published on the [Agency’s website](#).

Decree No. 2017-660 dated April 27, 2017, specifies the procedure to be followed to enter into a CJIP. Specifically, the Decree clarifies the conditions under which the Public Prosecutor can submit the CJIP, how the CJIP should be approved by the court, and how the obligations provided in the CJIP are to be executed.

On October 30, 2017, the first French CJIP was entered into by a Swiss private bank and the *Parquet National Financier*, the French specialized prosecutor’s office that handles financial offenses, related to the laundering of tax fraud proceeds. When signing the agreement, the bank acknowledged the facts set forth in the CJIP and agreed to pay a sum of EUR 300 million (i.e., damages, disgorgement, and a financial penalty). However, the bank did not plead guilty and was not submitted to a remediation program such as a monitorship. On November 14, 2017, the Paris Court approved the settlement. Two managers of the bank remain under investigation over the alleged misconduct, as the CJIP applies only to legal entities.

On June 4, 2018, the Paris Court approved another CJIP addressing allegations of international corruption, where the *Parquet National Financier* and the U.S. Department of

		Justice were both involved in the negotiations. The company—another bank—agreed to pay a sum of EUR 250 million to the French authorities and the same amount to the U.S. authorities. Furthermore, the bank is required to allow its compliance program to be monitored for a period of two years under the monitorship of the French Anticorruption Agency.
Participation in International Anti-Corruption Conventions	OECD Convention	Yes
	UNCAC	Signed October 31, 2003 Ratified July 11, 2005
Last Updated		July 5, 2019

Region		Europe
Country		Germany
2018 CPI	Rank	11/180
	Score	80
The Law on Bribery	Bribery of Domestic Officials	<p>Germany does not have one specific “catch all” anti-corruption law. Anti-corruption provisions are found in the German Criminal Code (“StGB”) and the Administrative Offenses Act (“OWiG”).</p> <p>Germany has acceded to the 1995 Convention on the Protection of the European Communities’ Financial Interests by enacting the EU Anti-Bribery Law (“EUBestG”), and it has also enacted the International Bribery Law (“IntBestG”) and the International Criminal Court Law (“IStGHGG”). At the domestic level, bribery is defined in the criminal code as follows:</p> <p><u>Offering a bribe:</u></p> <ul style="list-style-type: none"> • Any person who offers, promises, or grants a benefit to a public official, a person entrusted with special public service functions, or a soldier in the Armed Forces, for that person or a third person, for the discharge of a duty, shall be subject to imprisonment not exceeding three years or a fine (Section 333 (1) StGB). • Any person who commits the same offense but in relation to a judge or an arbitrator shall be subject to imprisonment not exceeding five years or a fine (Section 333 (2) StGB). <p><u>Offering a bribe as an incentive to a recipient violating his/her official duties:</u></p> <ul style="list-style-type: none"> • Any person who offers, promises, or grants a benefit to a public official, a person entrusted with special public service functions, or a soldier of the Armed Forces for that person or a third person in return for the fact that he/she performed or will in the future perform an official act and thereby violated or will violate his/her official duties shall be subject to three months to five years’ imprisonment. In less-serious cases, the penalty shall be imprisonment not exceeding two years or a fine (Section 334 (1) StGB). • The same offense but in relation to a judge/ arbitrator shall be subject to three months to five years’ imprisonment (for judicial acts performed) or from six months to five years’ imprisonment (for judicial acts in the future) (Section 334 (2) StGB). <p><u>Receiving a bribe:</u></p> <ul style="list-style-type: none"> • A public official or a person entrusted with special public service functions who demands, allows himself/herself to be promised, or accepts a benefit for a third person for the discharge of an official duty shall be subject to imprisonment not exceeding three years or a fine (Section 331(1) StGB). • A judge or arbitrator shall be subject to imprisonment not exceeding five years or a fine for the same offense but in relation to a judicial act (Section 331(2) StGB). <p><u>Receiving a bribe as an incentive to violating one’s official duties:</u></p> <ul style="list-style-type: none"> • A public official or person entrusted with special public service functions who demands, allows himself/herself to be promised, or accepts a benefit for himself/herself or for a third person in return for the fact that he/she performed or will in the future perform an official act and thereby violated or will violate his/her official duties shall be subject to six months to five years’ imprisonment. In less-serious cases, the penalty shall be imprisonment not exceeding three years or a fine (Section 332 (1) StGB). • A judge or an arbitrator shall be subject to one to 10 years’ imprisonment for the same offense, but in relation to a judicial act. In less-serious cases the penalty shall be from six months to five years’ imprisonment (Section 332 (2) StGB).
	Bribery of Foreign Officials	The EUBestG (Article 2) extended the reach of Sections 332, 334-336 and 338 StGB to EU officials. The IntBestG (Article 2) extended the reach of Sections 334 StGB to foreign

		officials. The IStGHGG extended the reach of Sections 331-336 and 338 StGB to officials of the International Criminal Court.
	Commercial Bribery	<p><u>Taking and giving bribes in commercial practice:</u></p> <ul style="list-style-type: none"> • Any person who, as an employee or agent of a business, demands, allows himself/herself to be promised, or accepts a benefit for himself/herself or another in a business transaction as consideration for according an unfair preference to another in the competitive purchase of goods or commercial services shall be subject to imprisonment of not more than three years or a fine (Section 299 (1) StGB). • Any person who for competitive purposes offers, promises, or grants an employee or agent of a business a benefit for himself/herself or for a third person in a business transaction as consideration for such employee's or agent's, according to him/her or another, unfair preference in the purchase of goods or commercial services shall incur the same penalty (Section 299 (2) StGB). • The above also applies to acts in competition abroad (Section 299 (3) StGB).
Definitions	Government Employee	<p>“Public official” means any of the following: civil servants or judges, those who otherwise carry out public official functions, or those who have otherwise been appointed to serve with a public authority or other agency or have been commissioned to perform public administrative services regardless of the organizational form chosen to fulfill such duties.</p> <p>“Judge” means any person who is either a professional or a lay judge.</p> <p>“Persons entrusted with special public service functions” means any person who, without being a public official, is employed by, or is acting for: (i) a public authority or agency, which performs public administrative services; or (ii) an association, union, business, or enterprise, which carries out public administrative services for a public authority or agency, and who is formally required by law to fulfill his/her duties with due diligence (Section 11 (1) StGB).</p>
	Gratification (Gifts/ Entertainments/ etc.)	“Benefit,” construed broadly, covers modest gifts, hospitality, charitable donations, and standard business contracts (“all advantages which benefit the recipient materially or immaterially and to which the recipient has no legal claim”).
Current Status	Enforcement Body	Germany does not have a centralized anti-corruption agency. Investigations are conducted by regular public prosecutor's offices (<i>Staatsanwaltschaften</i>) in cooperation with the police forces or, in tax related cases, by the tax investigation service.
	Issues in Enforcement	<p>German laws provide only for the criminal punishment of natural persons. Under German law, only natural persons (not companies) are capable of committing a criminal offense; companies therefore cannot be punishable for criminal offenses. Instead, the OWiG provides for fines for directors of companies for failing to perform their duties, resulting in offenses such as corruption, and fines for companies themselves, both up to EUR 1 million (or higher under certain circumstances) (Section 30 and Section 130 OWiG) without having to prove criminal culpability of the company.</p> <p>Germany has repeatedly attempted to introduce laws under which companies could be held liable for criminal offenses. Such attempts were made in 2013 at the state level (as opposed to federal level); additionally, in 2017, an association created a draft of a code subjecting companies to criminal liability. In 2018, the coalition parties agreed on the introduction of a criminal liability for companies. However, no drafts have been presented to the parliament and due to internal issues in the German coalition, it is doubtful whether the law will in fact be introduced within the current legislation period (until 2021).</p>
	Recent Movement	<p>According to the 2017 Annual Report of the German Federal Office of Criminal Investigation (<i>Bundeskriminalamt</i>), the number of cases of corruption reported by police is decreasing. While the number of reported offenses reached 20,263 in 2014, it was 6,502 in 2016 and as low as 4,894 in 2017. While in general these numbers may be connected to specific investigations, the significant decrease in reported cases over a five-year period suggests a trend caused by companies' awareness and the implementation of compliance measures.</p> <p>Nevertheless, according to a study published by Ernst & Young as recent as 2016, 43% of decision-makers in Germany believed that corruption was widespread in Germany. Until</p>

		<p>recently, the percentage of people holding this belief had been declining (45% in 2011, 30% in 2013, and 26% in 2015). The current increase appears to be due to various scandals in Germany, such as the Volkswagen emissions scandal, the Libor scandal, and illegal price-fixing among various German companies.</p> <p>On June 4, 2016, the new Anti-Corruption Act (<i>Antikorruptionsgesetz</i>) became effective, introducing Sections 299 (a), 299 (b) StGB, and amended 300 StGB, focusing on bribery in the health care sector. These sections have caused uncertainty in the health care sector as to the extent of lawful cooperation between pharmaceutical companies and doctors but will likely result in more effective enforcement of anti-corruption rules in this area.</p>
Participation in International Anti-Corruption Conventions	OECD Convention	Yes
	UNCAC	Signed December 9, 2003 Ratified November 12, 2014
Last Updated		June 20, 2019

Region		Europe
Country		Italy
2018 CPI	Rank	53/180
	Score	52
The Law on Bribery	Bribery of Domestic Officials	<p>Anti-corruption provisions are included in the Italian Criminal Code (“ICC”). Namely, Articles 318-322-<i>bis</i> ICC criminalize bribery of domestic officers and foreign officers. Under Italian law, criminal liability applies only to individuals and not to corporations or other entities. However, Legislative Decree No. 231/2001 provides for the direct administrative liability of a company in case any of its corporate officers commit bribery offenses in the interest, or for the benefit, of such company.</p> <p>Italy has also implemented additional anti-corruption rules. The anti-corruption law No. 190 of November 6, 2012 (“First Anti-Corruption Law”) introduced new provisions aimed at improving transparency in the public sector and providing for new categories of bribery offenses. The Anti-Corruption Law also introduced the <i>Autorità Nazionale Anti-Corruzione</i> (“National Anti-Corruption Authority”) which is granted investigative and remedial powers.</p> <p>In addition, the law No. 69 of May 27, 2015 (“Second Anti-Corruption Law”) aimed at increasing the level of the sanctions for Improper Bribery, Proper Bribery, Bribery in Judicial Acts, <i>Concussione</i> and Induced Bribery.</p> <p>In fact, the Second Anti-Corruption Law implemented an attenuating circumstance (pursuant to which the penalty may be reduced by one-third to two-thirds) for the convicted officer in the event he/she cooperates, so as to prevent any further offense, preserve evidence of the offense, identify other officers concurring in the offense, or detect the seizable goods which constituted the bribe.</p> <p>The Second Anti-Corruption Law also introduced a new provision setting forth a monetary fine, equal to the amount received by the bribed officer, to be paid by the convicted officer upon issuance of the judgment.</p> <p>On January 9, 2019, a new law on anti-corruption was enacted (“Third Anti-Corruption Law”). The Third Anti-Corruption Law follows the strict line of the Second Anti-Corruption Law by: (i) increasing the level of the sanctions for Improper Bribery and illicit exercise of influence; (ii) broadening the definition of “corruption-related crimes” to include instances of influence peddling; and (iii) expanding the sanctions for certain corruption-related crimes (including influence peddling, embezzlement, and corruption in judicial proceedings) to include a prohibition on contracting with public administrations and a disqualification from holding public office (such prohibitions to last for life in cases of corruption-related crimes carrying a sentence of more than two years in prison, and for five to seven years in cases of corruption-related crimes carrying sentences of less than two years).</p> <p>The overview below takes into account the provisions included in the ICC, the First Anti-Corruption Law, the Second Anti-Corruption Law, and the Third Anti-Corruption Law.</p> <p><u>Passive bribery (receiving a bribe):</u></p> <ul style="list-style-type: none"> • Improper Bribery: When a public officer receives undue consideration (for himself/herself or a third party), or even accepts only the promise of it, in exchange for the performance of the activities or powers pertaining to his/her office, he/she shall be punished with three to eight years’ imprisonment. Pursuant to certain case law (i.e., Italian Supreme Court ruling No. 3740/2015), the crime of improper bribery may occur either before the public official has carried out its lawful activities (aimed at, for example, speeding up the process) or afterwards, where the material payment of the undue consideration occurs after the private party has benefited from the unlawful request. • Proper Bribery: When a public officer receives undue consideration for himself/herself or for a third party, or even accepts only the promise of it, for the performance of an unlawful act (i.e., omission or delay in acts relating to his/her office, commission of acts in breach of his/her public duties), he/she shall be punished with six to 10 years’ imprisonment.

- Bribery in Judicial Acts: If the bribery offense occurs in connection with the exercise of judicial functions and is aimed at either favoring or disfavoring the accused, the criminal penalties vary between six to 12 years of imprisonment. However, if the bribery results in a wrongful sentence, criminal sanctions are significantly increased (i.e., up to 20 years' imprisonment, and the minimum shall not be less than eight years in case the wrongful sentence ranges between a five-year imprisonment sentence to a life sentence). Notably, the crime of bribery in judicial acts may also be punished when the receipt of undue consideration occurs after the criminal proceedings.
- In addition to imprisonment, courts may also seize goods which constitute the bribe or, when seizure of the goods is impossible, an amount equal to the profit or the amount of the bribe.

Active bribery (offering a bribe):

- Under the ICC, offering or promising to offer undue consideration or other benefits to a public officer is regarded as a criminal offense subject to the same criminal sanctions as are imposed on public officers. If the public officer does not accept the bribe, the briber shall be subject to a criminal sanction equal to one-third of the sanction applicable in the case where the public officer accepted the bribe.

Article 320 of the ICC also extends bribery offenses to persons in charge of a public service. However, criminal sanctions applicable to such individuals are lower than the penalties applicable to public officers.

Concussione:

The ICC also provides for a different criminal offense called “*concussione*.” A public officer who abuses his/her powers to force an individual to give money or other benefits to him/her or any third party is subject to six to 12 years' imprisonment. The individual induced to provide the bribe is regarded as a victim; therefore, no punishment is imposed on him/her.

Induced bribery:

When a public officer or a person in charge of a public service who, abusing his/her powers or office, induces an individual to give or promise money or any other benefit for himself/herself or for a third party, he/she shall be punished with six to 10 years and six months' imprisonment. The individual who is unlawfully induced to give or promise such money or other advantage to the public officer or person in charge of a public service also commits an offense (punishable by up to three years of imprisonment). In addition to imprisonment, courts also seize the goods which constitute the bribe or, when the seizure of the goods is impossible, an amount equal to the profit or the amount of the bribe.

Illicit exercise of influence:

Any person taking advantage of his/her relationship with a public officer for the purpose of receiving or promising money or other kind of economic advantage as compensation in exchange for his/her unlawful mediation with a public officer shall be punished with imprisonment up to four years and six months. A criminal offense is also triggered by any person unlawfully giving or promising money or other benefits in exchange for unlawful mediation with the public officer. The criminal sanction is increased in case the offense is committed by a public officer or a person in charge of a public service, while it is decreased in cases where the facts connected with the offense are non-material.

Corporate liability:

Legislative Decree No. 231/2001 (“231 Decree”) provides for direct liability of a company where any of its directors, managers, legal representatives, managers de facto, or employees commit certain crimes in the interest, or for the benefit, of the company. The liability of the company may occur only in the event that: (i) such representatives commit one of the specific crimes listed under the 231 Decree, and (ii) the crime is committed in the interest, or for the benefit, of the company. The liability of the company is independent from, and additional to, the personal criminal liability of the representative who committed the crime. However, if the representative commits the crime exclusively in his/her own interest or a third party's interest, the liability of the company may be excluded. Also, the liability of the company might be excluded even if it proves that it has adopted and effectively implemented, before the commission of the fact, organizational models suitable in order to

		<p>prevent crimes. The list of criminal offenses that may trigger the liability of the company pursuant to the 231 Decree includes bribery, commercial bribery, and illicit exercise of influence. If the company is found guilty, it may be subject to, <i>inter alia</i>, monetary sanctions and to “disqualifying sanctions” including debarment from entering into contracts with public administrations/state authorities, seizure of the profit of the bribery, and prohibition on continuing to carry out such business.</p> <p><u>New measures to be adopted by public administration entities:</u></p> <p>Each public administration is required to adopt specific measures to prevent the occurrence of bribery offenses. Such measures include, <i>inter alia</i>: (i) the adoption of an anti-corruption plan; (ii) the appointment of a compliance officer; and (iii) the adoption of a code of conduct for public sector employees.</p> <p>On September 11, 2013, the Italian Department of Public Administration approved the three-year (2014-2016) national anti-corruption plan for transparency and integrity. Pursuant to this plan, on August 3, 2016, the Anti-Corruption Authority approved a resolution on the final National Anti-Corruption Plan. The plan sets forth general guidelines for implementing anti-corruption actions and enhancing transparency. On January 30, 2019, another three-year plan for the prevention of corruption and transparency was adopted.</p> <p>The anti-corruption plan is aimed at checking each administration’s level of exposure to bribery risks. The scope of application of such plan includes public administration, economic public institutions, professional bodies, publicly controlled companies (including associations, foundations, or private entities publicly financed under certain conditions), and companies that are publicly owned (in such case, only the transparency provisions will apply for the data and the documents relating to public interest activities governed by Italian law and European law). The plan shall identify all activities that entail a degree of risk and provide arrangements which have been or will be made to prevent the occurrence of corruption in such areas. The implementation of the plan shall be monitored by a compliance officer, in charge of both the anti-corruption and transparency program, who will also assess the plan’s suitability and its compliance with the law. The activity of the officer is hence monitored by an independent body.</p> <p><u>Whistleblower protection:</u></p> <p>The Anti-Corruption Law provides for specific protection for public officers who report corrupt behavior. Whistleblowers shall not suffer dismissal, sanctions, or discrimination for having reported corrupt behavior. Furthermore, the whistleblower’s identity cannot be disclosed without express consent except in the case that the disclosure of identity is absolutely necessary for the defense of the suspect or person under investigation.</p> <p>Whistleblower protection has been further enhanced with the adoption of the new Law No. 179 of November 30, 2017. According to the new law, whistleblower protection extends to private employees. The law protects private employees from being dismissed or discriminated against for having reported corrupt behavior that they become aware of due to their employment. Furthermore, the identity of whistleblowers, in the case of both public officers and private employees, may not be disclosed during disciplinary or accounting proceedings.</p>
	<p>Bribery of Foreign Officials</p>	<p>Pursuant to Law No. 300/2000, which introduced Article 322-<i>bis</i> of the ICC, bribery offenses now cover foreign officers as well. The criminal offenses pertaining to bribery of domestic officers (e.g., improper bribery, proper bribery, bribery in judicial acts, induced bribery, etc.) are applicable in cases when the bribery offense involves EU public officers, public officers of the EU Member States, and public officers of international organizations.</p>
	<p>Commercial Bribery</p>	<p>Bribery in private commercial dealings is not formally regarded as a criminal offense under the ICC. Nevertheless, the Anti-Corruption Law amended the ICC by introducing a specific provision, Article 2635 of the Italian Civil Code, which, when first enacted, criminalized acts of bribery committed by a corporate officer. With the attempt to further restrict commercial bribery, Legislative Decree No. 38 of March 15, 2017, was recently adopted, amending Article 2635 of the ICC. This legislative decree extends the scope of bribery offenses to all employees exercising supervisory functions, who may now be subject to criminal punishment.</p>

		<p>Below is a summary of the provisions included in the ICC, the Anti-Corruption Law, and the above-mentioned legislative decree.</p> <p>Pursuant to Article 2635 of the modified ICC, individuals who pay bribes, corporate officers (i.e., directors, general managers, executives, statutory auditors, or liquidators of a company, or any employees of a company acting under the direction or supervision of a corporate officer) and employees exercising supervisory functions are subject to criminal punishment (i.e., up to three years’ imprisonment), if the relevant company suffers damages as a consequence of the following conduct:</p> <ul style="list-style-type: none"> (i) a corporate officer or an employee exercising supervisory functions acts or omits to act in breach of the duties of his/her office or in breach of the duty of loyalty incumbent upon him/her, in exchange for the payment or the promise of money or other kind of advantage for himself/herself or for a third party; (ii) a corporate officer or employee exercising supervisory functions <i>is induced</i> to act or omit to act in breach of the duties of his/her office or in breach of the duty of loyalty incumbent upon him/her, in exchange for the promise of money or other kind of advantage for himself/herself, even if the corporate officer or employee does not accept the bribe; or (iii) a corporate officer or an employee exercising supervisory functions <i>induces</i> an individual to give or promise to give money or any other benefit for himself/herself or for a third party for the corporate officer or employee to act or omit to act in breach of the duties relating to his/her office or in breach of the duty of loyalty incumbent upon him/her.
Definitions	Government Employee	<p>“Public Officer” means an individual who exercises public legislative, judicial, or administrative functions.</p> <p>“Person in Charge of a Public Service” means an individual who performs a public service (i.e., any activity regulated by public laws, but characterized by the absence of the typical powers of the public functions).</p>
	Gratification (Gifts/ Entertainments/ etc.)	<p>The term “considerations or other benefits” means money and any other benefit, interest, or gratification suitable for satisfying any personal interest of the receiver, even though such benefit cannot be subject to economic valuation.</p>
Current Status	Enforcement Body	<p>Bribery laws are enforced by Italian Public Prosecutors who are independent magistrates in the Italian judicial system. Investigations of bribery offenses are carried out by the police (i.e., <i>Polizia di Stato</i>, <i>Carabinieri</i>, <i>Guardia di Finanza</i>).</p> <p>The Anti-Corruption Law has introduced the National Anti-Corruption Authority. Notably, the National Anti-Corruption Authority has the following tasks: (i) approval of the national anti-corruption plan prepared by the Ministry of Public Administration; (ii) establishment of standards, measures, and guidelines to be applied by public officers in order to strengthen their regulatory regimes against corruption; (iii) determination and assessment of the causes underlying illicit conduct and the measures to prevent and sanction them; (iv) issuance of opinions on compliance of public officers’ conduct with their duties and regarding assignments of public offices; (v) cooperation with other local and/or international anti-corruption authorities; and (vi) annual reporting to the Parliament of its activities and results in the fight against corruption in the public sector.</p>
	Issues in Enforcement	<p>The statute of limitations regarding bribery offenses is relatively short: as a general rule, the statute of limitations is equal to the maximum sanction provided for each specific criminal offense, provided that it cannot be less than six years. This has proven to be a constraint on the enforcement of bribery laws. Several prosecutions for bribery have ended without convictions due to the operation of the statute of limitations.</p>
	Recent Movement	<p>Please see the “Commercial Bribery,” “Whistleblower protection,” “Bribery of Foreign Officials,” and Bribery of Domestic Officials” sections above.</p>
	OECD Convention	<p>Ratified on December 15, 2000</p>

Participation in International Anti-Corruption Conventions	UNCAC	Ratified on October 4, 2009
	Council of Europe Criminal Law and Civil Law Conventions on Corruption	Ratified on June 13, 2013 Entered into force on October 1, 2013
Last Updated		June 14, 2019

Region		Europe
Country		The Netherlands
2018 CPI	Rank	8/180
	Score	82
The Law on Bribery	Bribery of Domestic Officials	<p>Active bribery is an offense pursuant to sections 177 and 178 of the Dutch Criminal Code (“DCC”). Passive bribery is an offense pursuant to DCC Sections 363 and 364.</p> <p><u>Offering a bribe:</u> Pursuant to DCC section 177, it is an offense to make a gift or promise or render a service to a public official with the aim of either inducing himself/herself to act or refrain from acting in the course of his/her employment or rewarding himself/herself for past acts or omissions. It is also punishable to bribe a person who is expected to be appointed as a public official, if the appointment takes place as expected. A maximum sentence of six years or a maximum fine of the fifth category (now set at EUR 83,000) applies to violations of DCC Section 177.</p> <p><u>Receiving a bribe:</u> Pursuant to DCC section 363, a public official is punishable if he/she accepts a gift, promise, or service when he/she knows or should have known that the gift or promise was made or the service was rendered with the aim of inducing himself/herself to act or refrain from acting in the course of his/her employment or rewarding himself/herself for past acts or omissions. DCC Section 363 also applies if a person who is expected to be appointed as a public official commits these acts and the appointment takes place as expected. The maximum sentence is six years or a fine of the fifth category (now set at EUR 83,000).</p> <p><u>Judicial bribery:</u> Bribery of judges with the aim of influencing the outcome of any legal proceedings is punishable pursuant to DCC Section 178. This crime may lead to a maximum sentence of nine years, or even 12 years if the bribery takes place in connection with criminal proceedings, and a maximum fine of the fifth category. A judge who accepts or solicits a gift, promise, or service is punishable pursuant to DCC Section 364 with a maximum sentence of nine years and a fine of the fifth category. If the bribery takes place in connection with criminal proceedings, the maximum sentence is 12 years.</p> <p><u>Corporate liability:</u> Both individuals and legal entities can be held criminally liable. An individual act or omission may lead to corporate criminal liability if a judge holds that it is reasonable to attribute the act or omission to the legal entity. This will, in principle, be the case if the act or omission has taken place within arm’s length or within the setting of the legal entity. Once it has been established that the legal entity has committed bribery, individuals within the legal entity (other than the actual offender) can also be held criminally liable if it can be proven that they have directed or ordered the bribe.</p> <p>In the case of criminal liability of a corporate entity, the courts may impose maximum fines of up to 10% of a company’s annual turnover.</p>
	Bribery of Foreign Officials	DCC Sections 178a and 364a provide that the general provisions on active and passive bribery of public officials are also applicable to foreign officials. The elements of the offense of bribery of public officials apply accordingly to the bribery of foreign public officials and officials of international organizations. A “foreign public official” is defined as a person exercising a public function for a foreign country or public international organization. Rewarding a former public official is also punishable.
	Commercial Bribery	<p>DCC Section 328ter provides that it is an offense for an employee or agent to accept or solicit a gift, promise, or service in connection with an act or omission in the course of his/her employment or agency and which is in contravention of that employee’s or agent’s duties. The active variant is also punishable. A maximum sentence of four years and a maximum fine of the fifth category apply.</p> <p>As stated above, in the case of criminal liability of a corporate entity, the courts may impose maximum fines of up to 10% of a company’s annual turnover.</p>

Definitions	Government Employee	The DCC does not provide a definition for the term “public official.” Employees of the state, provinces, and municipalities, as well as of public bodies, are regarded as such. However, the scope of this term is much broader. The Supreme Court of the Netherlands defined a “public official” as a person who has been appointed under the supervision and responsibility of the government to hold employment with a public character and who performs part of the duties of the government. Members of representative bodies, judges, and members of the military are also considered public officials.
	Gratification (Gifts/ Entertainments/ etc.)	In principle, public officials are not allowed to receive any kind of gifts. In practice, however, small gifts are usually allowed. There is no legal threshold for the value of the gift. Instead, a case-by-case approach is taken.
Current Status	Enforcement Body	The Public Prosecution Service (“PPS”) is responsible for initiating criminal proceedings in both domestic and foreign bribery cases. The National Public Prosecutor on Corruption is in charge of coordinating these cases.
	Issues in Enforcement	<p>In an evaluation report published in 2012, the OECD concluded that the Netherlands failed to vigorously act against foreign bribery and that more should be done to guarantee compliance with the prohibition on bribery of foreign public officials. In 2015, the OECD concluded that the Netherlands has improved from “Little or No Enforcement” to “Limited Enforcement.”</p> <p>In an evaluation report published in February 2019, the Council of Europe’s Group of States Against Corruption (“GRECO”) called for enhanced measures to prevent corruption in the Netherlands in respect of persons entrusted with top executive functions, including ministers, state secretaries, and political advisors, as well as members of law enforcement agencies. The implementation of the 16 recommendations addressed to the Netherlands will be assessed by GRECO in 2020.</p> <p>In recent years, there has been an upsurge in enforcement of (cross-border) bribery, resulting in sizable settlements. In these investigations, the PPS increasingly cooperates with foreign enforcement agencies and appears to apply more readily and on a larger scale aggressive investigation methods such as wiretapping and bugging offices. Moreover, the PPS is putting more pressure on legal privilege. Following the U.S. trend, individuals are increasingly excluded from settlement agreements and are consequently prosecuted. On a national level, there has been an increase in enforcement of commercial bribery.</p> <p>Unlike many other jurisdictions, there is no guidance in place for self-reporting, disclosure, sentencing, or anti-bribery and corruption compliance programs in relation to bribery offenses.</p>
	Recent Movement	On January 1, 2015, new legislation entered into force, amending the bribery provisions. The provisions have been tightened, and the maximum penalties have been significantly increased. In early 2016, an international telecommunications provider incorporated in the Netherlands settled a suspicion of, among other things, bribery of foreign officials with the Public Prosecution Service for an amount of nearly USD 400 million, the largest such settlement to date in the Netherlands. In a related case, the Regional Court Amsterdam handed down, on July 20, 2016, the first ever conviction (<i>in absentia</i>) of a non-Dutch company for passive bribery, imposing a fine in excess of EUR 1.5 million and the confiscation of shares. In 2018, a treasurer and intermediary of the Vestia housing association were convicted for commercial bribery and sentenced to years of imprisonment. The treasurer received half the commission the intermediary was paid by banks in relation to the purchases of derivatives. The derivatives portfolio almost caused the bankruptcy of Vestia. An appeal has been lodged. Following the U.S. practice with respect to corruption investigations, an increasing number of companies in the Netherlands have been investigating and consequently self-reporting bribery-related conduct to the authorities.
Participation in International Anti-Corruption Conventions	OECD Convention	Yes
	UNCAC	Signed December 10, 2003 Ratified October 31, 2006

Last Updated	June 14, 2018
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Region		Europe
Country		Poland
2018 CPI	Rank	36/180
	Score	60
The Law on Bribery	Bribery of Domestic Officials	<p>In Poland, the giving and receiving of bribes (by providing, promising to provide, or accepting bribes) in the public sector are crimes under the Penal Code.</p> <p><u>Offering a bribe:</u> Providing or promising to provide a material or personal benefit to a person discharging a public function in connection with the discharge of such function (Art. 229 Penal Code):</p> <ul style="list-style-type: none"> • Material or personal benefit: six months to eight years of imprisonment (Art. 229 §1 Penal Code). • Substantial material benefit: two to 12 years' imprisonment (Art. 229 §4 Penal Code). • Involves an act in violation of the law: one to 10 years' imprisonment (Art. 229 §3 Penal Code). • Less significant case: fine, limitation of liberty or up to two years' imprisonment (Art. 229 §2 Penal Code). <p><u>Receiving a bribe:</u> Accepting a material or personal benefit or a promise of such benefit in connection with the performance of a public function (Art. 228 Penal Code):</p> <ul style="list-style-type: none"> • Material or personal benefit: six months to eight years of imprisonment (Art. 228 §1 Penal Code). • Substantial material benefit: two to 12 years' imprisonment (Art. 228 §5 Penal Code). • Involves an act in violation of the law: one to 10 years' imprisonment (Art. 228 §3 Penal Code). • Less significant case: fine, limitation of liberty, or up to two years' imprisonment (Art. 228 §2 Penal Code). <p><u>Corporate liability:</u> The Law on Liability of Collective Entities establishes corporate liability for bribery and sets forth a fine of PLN 1,000 to 5 million with a limit of not more than 3% of revenue earned in the financial year in which the offense was committed. In practice, however, the law is rarely applied and often requires that the natural person who performed the actual act of bribery be convicted before the company may be found liable. According to court statistics, in 2017, 10 entities were found guilty under the Act and fines between PLN 1,000 and PLN 5,000 were imposed.</p>
	Bribery of Foreign Officials	<p>The bribery of foreign officials is prohibited under the same articles of the Penal Code that criminalize bribery of domestic officials. In 2000, the Penal Code added provisions that prohibit bribery of “persons performing public functions in a foreign state or international organization”:</p> <ul style="list-style-type: none"> • Offering a bribe (Art. 229 §5 Penal Code). • Receiving a bribe (Art. 228 §6 Penal Code).
	Commercial Bribery	<p>Bribery in the private sector is prohibited under the Penal Code.</p> <p><u>Offering a bribe:</u> Providing or promising to provide a material or personal benefit to a person in a managing position in an economic entity or in an employment relationship on any legal ground, in return for abusing the authority granted to him/her, or for not complying with an obligation which could cause material damage to the entity, or constitute an act of unfair competition or an unacceptable act of preference: three months to five years of imprisonment (Art. 296a §2 Penal Code).</p> <p><u>Receiving a bribe:</u> Abuse of legally or contractually granted, or corporate power to manage assets or business of an individual or an entity (Art. 296 Penal Code):</p>

		<ul style="list-style-type: none"> Substantial damage: three months to five years of imprisonment (Art. 296 §1 Penal Code). Imminent danger of causing substantial damage to assets or business: up to three years' imprisonment (Art. 296 §1a Penal Code). Material benefit: six months to eight years of imprisonment (Art. 296 §2 Penal Code). Significant material damage: one to 10 years' imprisonment (Art. 296 §3 Penal Code). <p>The requesting or accepting of a material or personal benefit or a promise of such benefit by a person in a managing position in an economic entity or employed by it on any legal ground, in connection with the breach of contractual obligations or the obligations of an employee:</p> <ul style="list-style-type: none"> Leading to a financial or personal benefit for abusing the granted authority, or failing an obligation, or a breach of unfair competition law or disallowed preferential treatment of a counterpart: three months to five years of imprisonment (Art. 296a §1 Penal Code). Significant damage: six months to eight years of imprisonment (Art. 296a §4 Penal Code).
Definitions	Government Employee	The anti-corruption provisions mention “persons performing a public function” (as defined in Art. 115 §19 Penal Code). A public official is anyone in the executive, legislative, or judicial branches of government, as well as employees of state administrative, audit/inspection, military, or security agencies (as mentioned in Art. 115 §13 Penal Code). There is no explicit discussion of the employees of state-owned enterprises, but even if they are not captured under public bribery, they could be prosecuted under private bribery.
	Gratification (Gifts/Entertainments/etc.)	The Penal Code uses the term “material or personal benefit” in Art. 228, Art. 229 and Art. 296a. It is clear that anti-corruption laws would apply in cases where monetary as well as other personal benefits were offered or promised to be offered.
Current Status	Enforcement Body	In Poland, there are three major agencies responsible for the enforcement of anti-corruption laws: (i) the Central Anti-Corruption Office (<i>Centralne Biuro Antykorupcyjne</i> , “CBA”), (ii) the Central Investigation Office (<i>Centralne Biuro Śledcze</i> , “CBŚ”), and (iii) the Internal Security Agency (<i>Agencja Bezpieczeństwa Wewnętrznego</i> , “ABW”). The CBA is a special service created in 2006 to fight corruption in public and economic life, particularly in public and local government institutions, as well as to fight against activities detrimental to the state’s economic interest. The CBŚ (being one of the specialized units of the police) was created to fight against organized crime with a cross-border character, drug and economic (including bribery) offenses, and terrorism. The ABW protects the internal security of Poland and its citizens. One of its main objectives is to fight against corruption in cases where the scale, individual offender, or the subject of a decision can affect the state’s internal security. Additionally, as a general rule regarding prosecuting criminal offenses, there are other enforcement bodies in Poland dealing with bribes such as the police and public prosecutors.
	Issues in Enforcement	<ul style="list-style-type: none"> Immunity from prosecution for many holders of public office. There is no clear division of tasks among the three major anti-corruption agencies; the three agencies tend to work in competition with each other. Whistleblower protection is afforded by the Act of June 25, 1997, on Crown Witnesses, which expressly applies to corruption crimes envisaged in Art. 228 (§1 and §3-6), Art. 229 (§1 and §3-5), and Art. 296a (§1, 2, and 4) of the Penal Code. This Act releases a person involved in crimes if he/she, prior to indictment, gives the enforcement bodies information on the details of the crime committed which is helpful to disclose other offenders and crimes, if such information is confirmed during court proceedings.
	Recent Movement	None
Participation in International Anti-Corruption Conventions	OECD Convention	Yes
	UNCAC	Ratified September 15, 2006

Last Updated	July 04, 2019
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Region		Europe
Country		Russia
2018 CPI	Rank	138/180
	Score	28
The Law on Bribery	Bribery of Domestic Officials	<p>The Russian Federation (“RF”) is in the process of developing and modernizing existing anti-corruption legislation which includes several clauses in the RF Criminal Code, the RF Code on Administrative Offences, the RF Federal Law “On Counteraction Against Corruption,” and the RF Federal Law “On Public Service.” These legislative acts criminalize bribery of domestic and foreign officials as well as commercial bribery.</p> <p><u>Offering a bribe:</u> It is a criminal offense to bribe any domestic public official (a person performing a function of a public nature) if there is an intention to induce the domestic official to perform a relevant function or activity improperly, or reward the domestic official for the improper performance of such a function or activity (Article 291 of the RF Criminal Code).</p> <p><u>Receiving a bribe:</u> It is also a criminal offense for any person performing a function of a public nature to request, agree, to receive or accept a bribe (Article 290 of the RF Criminal Code).</p> <p><u>Corporate liability:</u> Russian criminal law provides for criminal liability for individuals only. At the same time, there is administrative liability for legal entities involved in bribery. In particular, the “transfer of an unlawful remuneration/compensation” to a domestic or foreign official, officer of a commercial entity, or officer of an international public organization for performing action/inaction in favor of the “transferor” and based on the official/officer’s authority or managerial functions is deemed an administrative offense (Article 19.28 of the RF Code on Administrative Offenses).</p>
	Bribery of Foreign Officials	It is a criminal offense to bribe any foreign public official or an officer of an international public organization (Article 291 of the RF Criminal Code).
	Commercial Bribery	It is a criminal offense to bribe an officer undertaking management functions in a commercial “or other” entity for such officer’s action or inaction in favor of the briber and based on the officer’s managerial functions (Article 204 of the RF Criminal Code).
Definitions	Government Employee	Russian law defines “public official” as an individual officer who discharges the functions of a public authority representative at any level of government (i.e., federal, regional, and municipal) as well as at state-owned corporations. Employees of state-owned corporations are not generally considered “public officials” unless they discharge a public function.
	Gratification (Gifts/Entertainments/ etc.)	<p>RF Federal Law “On Public Service” generally prohibits public officers from accepting gifts, while at the same time RF Civil Code provides that a trivial gift/gratification with a maximum value of 3,000 rubles is permitted. Such gifts/gratifications cannot relate to the public officer’s action/inaction toward the person providing the gift.</p> <p>There is no exception for facilitation payments under Russian law.</p>
Current Status	Enforcement Body	Different Russian law enforcement agencies are involved in anti-corruption enforcement activity, including the RF Ministry of Interior, the RF Investigation Committee, and the Federal Security Service. There is no single authority which undertakes the functions of a national anti-corruption enforcement agency.
	Issues in Enforcement	Russian authorities are generally focusing on low-profile domestic corruption investigations while systemic corruption activity remains outside their enforcement scope. Russian authorities have visibly ignored obvious grounds for undertaking domestic investigations in cases where bribery of high-ranking Russian officials was admitted by the defendants in investigations outside of Russia (e.g., the Daimler, HP, and Siemens investigations), Mossack Fonseca “Panama Papers” disclosures, etc.

	Recent Movement	Russian authorities continue their trend of recent years of commencing investigations against high-rank officials only on politically motivated grounds and ignoring allegations of corruption involving those officials loyal to the administration. Russian authorities increasingly view anti-corruption as an “anti-Russia adverse foreign influence” and an anti-establishment agenda of those opposing the administration within Russia.
Participation in International Anti-Corruption Conventions	OECD Convention	Yes
	UNCAC	Signed December 9, 2003 Ratified May 9, 2006. Although the UNCAC was signed by Russia in 2003 and ratified in 2006 (except for Article 20), Russia continues to oppose ratification of Article 20 of the UNCAC depriving domestic enforcement of an obvious and effective anti-corruption tool.
Last Updated		June 7, 2019

Region		Europe
Country		Spain
2018 CPI	Rank	41/180
	Score	58
The Law on Bribery	Bribery of Domestic Officials	<p>Article 419 <i>et seq.</i> of the Criminal Code address corrupt practices involving Spanish public servants.</p> <p><u>Offering a bribe</u>: It is a crime to corrupt or try to corrupt Spanish authorities or public servants by means of promises, presents, and/or offerings, with the aim of obtaining from that authority or public servant the execution of an unfair act or omission in the performance of his/her duties or just in consideration to his/her office.</p> <p><u>Receiving a bribe</u>: It is a crime for public servants to accept presents and/or offerings in exchange for an act or omission in the performance of his/her duties.</p> <p><u>Influence peddling</u>: Articles 428 <i>et seq.</i> of the Criminal Code prohibit influence peddling practices, including taking improper advantage of personal relations with a civil servant or public officer or authority to obtain a resolution that may directly or indirectly generate a financial benefit for oneself or a third party.</p> <p>These prohibitions apply to (i) Spanish authorities and public servants; and (ii) any natural person (whether acting on his/her own behalf or on behalf of a company) or legal person based in Spain at the time of the corrupt practice.</p>
	Bribery of Foreign Officials	<p>Articles 419 <i>et seq.</i> of the Criminal Code also apply to officers and civil servants of the EU or any other foreign or international public organization as well as civil servants who are nationals of other member states of the EU or any other foreign country.</p> <p>Moreover, Foreign Officials Bribery is specifically included in Article 286 ter of the Criminal Code, affecting those who, in person or through an intermediary, in order to achieve or preserve a contract, business, or any other competitive advantage in the performance of international economic activities, corrupt or seek to corrupt an authority or public servant (from an EU country, another foreign country, or an international organization) by offering, promising, or granting any undue advantage or benefit (monetary or otherwise). A bribe may not be made for one's own benefit or for the benefit of a third party and may not be made for the purpose of having someone (the authority or public servant or the person receiving the bribe) act or refrain from acting. It is also forbidden to heed bribe requests from the authority of a public servant.</p>
	Commercial Bribery	<p>Article 286 bis of the Criminal Code addresses corrupt practices between private individuals.</p> <p>It is unlawful:</p> <ul style="list-style-type: none"> • To promise, offer, or grant executives, directors, employees, or collaborators of an organization an unfair benefit or advantage of any nature, to favor him/her or a third party against others, for breaching their obligations in the acquisition or the sale of goods or in the hiring of professional services; or • For executives, directors, employees, or collaborators of organizations, to request, receive, or accept such benefits and advantages or an offer or promise to obtain them, to favor whoever grants, or whoever expects the profit or advantage over third parties, breaching their obligations in the acquisition or the sale of goods or in the hiring of professional services. • For executives, directors, employees, or collaborators of sport entities to request or accept such benefits or advantages to favor whoever grants, or whoever expects the profit or advantage over third parties, breaching their obligations in the acquisition or the sale of goods or in the hiring of professional services and for sportsmen, referees, or judges to carry out any conduct in order to alter the normal outcome of a particularly relevant competition or match.

		This prohibition applies to any natural or legal person based in Spain at the time that the conduct that constitutes the corrupt practice is carried out.
Definitions	Government Employee	<p>“Spanish authority” is deemed to be held by persons who alone or as a member of any corporation, board or collegiate body have a commanding post or exercise jurisdiction pertaining thereto, including members of the Congress of Deputies, the Senate, the Legislative Assemblies of the Autonomous Communities, the European Parliament, and the Public Prosecutor’s Office (Article 24.1 of the Criminal Code).</p> <p>“Spanish civil servants” are those who, by force of the law, or by election or appointment by the authority with relevant powers, participate in the exercise of public duties, including juries, arbitrators (Spanish or international), experts, administrators, insolvency practitioners, and receivers appointed by the court (Articles 24.2 and 423 of the Criminal Code).</p> <p>“Foreign officials, authorities, or civil servants” include: (i) any person who holds a legislative, administrative, or judicial office in a member state of the European Union or any other foreign country; (ii) any person who exercises a public duty for any EU member state, for any other foreign country (including a public body or a public company), for the EU or for any other international public organization; (iii) any officer or agent of the EU or of an international public organization; or (iv) any other person assigned and exercising a public service function involving the management of or decisions concerning the Union’s financial interests in Member States or third countries (Article 427 of the Criminal Code).</p>
	Gratification (Gifts/ Entertainments/ etc.)	The Spanish authorities state that “undue pecuniary or other advantage” and “presents, gifts, offers, or promises” cover advantages of all kinds, real and personal, tangible and intangible, pecuniary and non-pecuniary. The bribes in past domestic corruption cases have included money, a remuneration agreement, a painting, and a mink coat.
Current Status	Enforcement Body	<p>The key authority is the Special Prosecutor’s Office for Corruption-Related Economic Offenses, regulated by the Organic Statute of the Attorney General’s Office approved by Act 50/1981 of December 30, 1981, and amended by Act 14/2003 of May 26, 2003, and by Act 24/2007 of October 6, 2007.</p> <p>On July 12, 2006, Direction 4/2006 of Public Prosecutor General’s Office came into force and redefined the authority of the Special Public Prosecutor’s Office against Corruption.</p>
	Issues in Enforcement	<p>On March 6, 2019, the Investigative Court No. 5 of the High National Court issued a ruling prosecuting 10 individuals and three companies for several crimes, including bribery of foreign officials. In particular, they will be tried for allegedly bribing Saudi Arabian officials to obtain contracts with the Saudi administration amounting to approximately EUR 50 million. This case is a separate proceeding and part of a larger bribery scheme, with ramifications in Angola, Brazil, Cameroon, and Egypt.</p> <p>On May 28, 2019, the Investigative Court No. 5 of Huesca ordered the arrest of several football players and former football players, as well as managers of a First Division football club, for the alleged fixing of matches through illegal betting. The case is currently under secret investigation, and not much more information has been released in this regard, but it seems it will be a major issue in the medium-term future.</p> <p>Apart from the above, recent large-scale corruption cases have revealed a number of alleged corrupt practices affecting public funds and the financing of political parties.</p> <p>In addition, according to the Spanish Commercial Code, the Capital Companies Law, and the Audit Law, corporate groups are obliged to include in their consolidated annual report: (i) a description of the policies implemented to prevent corruption practices and the result of such policies; (ii) the group’s corruption risks according to its activities; and (iii) how the group will manage those risks. If the corporate group has not implemented an anti-corruption policy, it shall give a clear and reasoned explanation as to why it has not implemented such a policy in the consolidated annual report.</p>
	Recent Movement	Organic Law 1/2015 of March 30, 2015, amends the Criminal Code.

		Royal Decree-Law 18/2017 of November 24, 2017, amends the Spanish Commercial Code, the Capital Companies Law, and the Audit Law. Organic Law 1/2019 of February 20, 2019, amends the Criminal Code.
Participation in International Anti-Corruption Conventions	OECD Convention	Yes. Spain signed the OECD Convention on December 17, 1997, and ratified it on January 14, 2000. Following ratification, Spain passed a number of measures to implement the OECD standards. The provisions on foreign bribery applicable to physical persons were adopted in 2000. The relevant provisions of the Criminal Code were renumbered and renamed in 2004, and a 2010 amendment of the Criminal Code further conformed the Criminal Code to the OECD Convention.
	UNCAC	Signed September 16, 2005 Ratified June 19, 2006
Last Updated		June 3, 2019

Region		Europe
Country		United Kingdom
2018 CPI	Rank	11/180
	Score	80
The Law on Bribery	Bribery of Domestic Officials	<p>The United Kingdom has comprehensive anti-corruption legislation in the form of the Bribery Act 2010 (“UKBA”), which took effect from July 2011. The UKBA criminalizes bribery of domestic officials, bribery of foreign officials, and bribery in a commercial context. Both the offering and receipt of bribes are prohibited. The UKBA also contains a separate strict liability offense, which can be committed by a relevant organization if the organization fails to have adequate processes in place to prevent bribery by its associated persons (“corporate offense”).</p> <p>In the context of bribery of domestic officials:</p> <p><u>Offering a bribe:</u> It is a criminal offense to offer a financial or other advantage to any person performing a function of a public nature if there is an intention to induce the domestic official to perform improperly a relevant function or activity, or reward the domestic official for the improper performance of such a function or activity. It is also a criminal offense to offer a financial or other advantage to a domestic official where the acceptance of the advantage would itself constitute the improper performance of a relevant function or activity (Section 1, UKBA).</p> <p><u>Receiving a bribe:</u> It is a criminal offense for any person performing a function of a public nature to request, agree to receive, or accept a financial or other advantage intending that, or anticipating that, a relevant function or activity should be performed improperly or as a reward for the improper performance of a relevant function or activity (Section 2, UKBA).</p> <p><u>Corporate liability:</u></p> <ul style="list-style-type: none"> • <u>Strict liability corporate offense:</u> There is an additional, strict-liability criminal offense under the UKBA where any commercial organization which does part of its business in the United Kingdom can be liable if any person associated with the company bribes another person intending to either obtain or retain business for the company or obtain or retain an advantage in the conduct of business for the company (Section 7, UKBA). Associated persons include anyone performing services for the company such as employees, consultants, and agents. There is a single statutory defense to the corporate offense: that the company had in place adequate procedures designed to prevent persons associated with the company from undertaking such conduct. • <u>Jurisdiction of the UKBA:</u> Individuals, companies, partnerships, and other forms of corporate bodies can be prosecuted in their own right for all of the offenses under the UKBA, so references to “person” above include corporate persons. If a company is found guilty of an offense, the UKBA provides that senior officers and directors of the company may also be prosecuted for the same offense in their personal capacities. The UKBA asserts wide extraterritorial jurisdiction and does not only apply to offenses that take place within the United Kingdom. UK companies and UK nationals/residents are subject to the UKBA with respect to their conduct wherever in the world it takes place. Any business which does part of its business in the United Kingdom is subject to the strict liability corporate offense, no matter where in the world it operates.
	Bribery of Foreign Officials	<p>It is a criminal offense under the UKBA for a person to bribe a foreign public official if the person intends to influence the foreign public official in his/her capacity as a foreign public official. The person must also intend to obtain or retain business or an advantage in the conduct of business by the bribe (Section 6, UKBA).</p> <p>A person will be guilty of the offense of bribing a foreign public official only if he, directly or through a third party, offers, promises, or gives any financial or other advantage to the foreign public official or to another person at the foreign public official’s request or with the foreign public official’s assent or acquiescence, and the foreign public official is neither permitted nor required by the written law applicable to the foreign public official to be</p>

		influenced in his/her capacity as a foreign public official by the offer, promise or gift (Section 6, UKBA).
	Commercial Bribery	<p>The same provisions of the UKBA that cover bribery of domestic officials also apply generally to private commercial dealings between individuals and businesses.</p> <p><u>Offering a bribe:</u> It is a criminal offense to offer a financial or other advantage to any person performing a function connected to a business, or in the course of employment, or on behalf of a body of persons, if there is an intention to induce the employee to perform improperly a relevant function or activity, or reward the employee for the improper performance of such a function or activity. It is also a criminal offense to offer a financial or other advantage to an employee where the acceptance of the advantage would itself constitute the improper performance of a relevant function or activity (Section 1, UKBA).</p> <p><u>Receiving a bribe:</u> It is also a criminal offense for any person performing a function connected to a business, or in the course of employment, or on behalf of a body of persons, to request, agree to receive, or accept a financial or other advantage intending, or anticipating, that a relevant function or activity should be performed improperly or as a reward for the improper performance of a relevant function or activity (Section 2, UKBA).</p>
Definitions	Government Employee	<p>“Foreign public official” means an individual who:</p> <ul style="list-style-type: none"> • Holds a legislative, administrative, or judicial position of any kind, whether appointed or elected, of a country or territory outside the United Kingdom (or any subdivision of such country or territory); • Exercises a public function: (i) for or on behalf of a country or territory outside the United Kingdom (or any subdivision of such country or territory); or (ii) for any public agency or public enterprise of that country or territory (or subdivision); or • Is an official or agent of a public international organization.
	Gratification (Gifts/ Entertainments/ etc.)	<p>The UKBA prohibits bribery in the form of “financial or other advantage.” That is, the bribe does not have to be money but can be anything that might have value to the recipient, including gifts, meals, entertainment, travel, stock, business opportunities, contributions to favored charities, or offers of employment (for the recipient or a family member). A bribe can be any amount; there is no <i>de minimis</i> level under which the payment will not be considered a bribe. There is no exception or affirmative defense for expenses in connection with promotional activities, and no exception for facilitating payments.</p>
Current Status	Enforcement Body	<p>Any of the Crown Prosecution Service, the Serious Fraud Office (“SFO”) and HMRC (UK tax authorities) can consent to the bringing of proceedings under the UKBA.</p>
	Issues in Enforcement	<p>While still relatively recent legislation, there are now a number of prosecutions and resolutions which serve as a guide to how the prosecutors and the courts approach the UKBA offenses and what penalties corporates and others may expect to result on conviction or by way of other resolution.</p> <p>In February 2016, the SFO secured its first conviction under the Section 7 UKBA Corporate Offence, when Sweett Group plc was convicted of the offense of failing to prevent its subsidiary from paying bribes on its behalf. The case provided some helpful clarification as to when a subsidiary will be considered as an “associated person” to its parent. In this matter, the subsidiary was operated by the parent as a department of its business, thus bringing it within the scope of Section 7 of the UKBA.</p> <p>February 2018 saw the first successful prosecution of a contested case under the section 7 “corporate offence,” when SIL (a UK-based company) was found guilty by a jury of failing to prevent bribery by a person associated with the company (in this case, the former managing director). SIL had attempted to defend the prosecution on the basis that it had adequate procedures in place to prevent bribery in the context of the size and complexity of its business (it did not have a separate, specific bribery policy in place). The prosecution argued that there were no contemporaneous records of SIL’s efforts to introduce a zero-tolerance culture in relation to anti-bribery, there was a lack of monitoring and updating of policies and procedures as well as staff training, and no compliance officer had been appointed. The jury found SIL’s policies and procedures</p>

		<p>deficient, but the trial judge imposed an absolute discharge resulting in no penalty and no criminal record.</p> <p>It is notable, that the authorities learned of the issues only because SIL proactively reported the matter and provided extensive cooperation, yet it was not able to obtain a deferred prosecution agreement (“DPA”) (see section below) which would have allowed it to avoid prosecution, partly because the company was dormant by the time of the prosecution and was not in a position to meet the financial elements of a resolution by way of DPA. In addition, the CPS justified their decision to prosecute SIL on the basis that it would send a clear message to UK businesses that they need to put specific anti-bribery procedures in place.</p> <p>DPAs were introduced into the United Kingdom by the Crime and Courts Act 2013. DPAs can be used for fraud, bribery, and other economic crimes. They apply to organizations, not individuals.</p> <p>Under a DPA, a prosecutor charges a company with a criminal offense but proceedings are automatically suspended. The company agrees to a number of conditions, which if they are not met will result in the reactivation of the prosecution.</p> <p>At the end of 2015, the SFO made its first application for a DPA, which was approved by the English Court. The counterparty to the DPA, Standard Bank plc, was subject to an indictment alleging failure to prevent bribery contrary to Section 7 of the Bribery Act 2010. This indictment, pursuant to DPA proceedings, was immediately suspended. This was also the first use of Section 7 of the Bribery Act 2010 by any prosecutor. As a result of the DPA, Standard Bank plc agreed to pay significant fines, disgorge profits, as well as cover prosecution costs. On November 30, 2018, the SFO announced the conclusion of the DPA confirming that Standard Bank had fully complied with its terms. Under the DPA terms, Standard Bank was required to commission an external consultant to report on its anti-bribery and corruption controls, policies, and procedures, and to recommend improvements to strengthen its controls, with regular reports issued to the SFO.</p> <p>There have now been a further three DPAs agreed with the SFO, two of which were in respect of UKBA offenses. One of these was with an SME, the other was with Rolls-Royce Plc, where the Section 7 indictment was advanced even though the court found that there was evidence that the offenses implicated the senior management or “controlling minds” of the corporate.</p> <p>As a result of its January 2017 DPA, Rolls-Royce agreed to pay a total of £497.2 million in financial penalties, compensation, and costs to the UK government. As with Standard Bank’s DPA, coordinated resolutions were reached with foreign law enforcement (in Rolls-Royce’s case, the U.S. and Brazilian authorities).</p> <p>The effect of each DPA has been to suspend prosecution for a number of years on prescribed terms and, in the case of Standard Bank and Rolls-Royce, submit compliance procedures to scrutiny. In each case, cooperation with individual prosecutions or foreign authorities’ investigations is a further condition. The approval of the DPAs by way of court judgments has also provided guidance on how “associated persons” will be construed, particularly in terms of the extent to which employees of group entities as well as intermediaries may attract liability for companies within the group under Section 7.</p> <p>There has also been the first implementation of an unexplained wealth order (“UWO”) in connection with underlying allegations of bribery and corruption in the UK. A UWO requires a person who is reasonably suspected of involvement in, or of being connected to a person involved in, serious crime to explain the nature and extent of their interest in particular property, and to explain how the property was obtained.</p>
	<p>Recent Movement</p>	<p>The UK government has continued to raise the possibility of changes to the legal framework for economic crime in the UK, following its 2014 Anti-Corruption Plan which advised the consideration of a new offense of “corporate failure to prevent economic crime,” which would establish corporate criminal liability more widely and replace the old, and often viewed as outdated, “identification principle.”</p> <p>Notwithstanding the conclusion of the UK government in October 2015 that there was no need for any change to the rules for corporate criminal liability, in January 2017, the UK government issued an open consultation and call for evidence. Evidence is specifically</p>

		<p>sought as to whether the “identification doctrine” is deficient as a tool for effective enforcement of the criminal law against large modern companies. The latest consultation suggests a number of areas for reform but favors an extension of the “failure to prevent” model already adopted for bribery and tax evasion into other areas of economic crime. This would toughen existing laws and would be expected to make it easier for prosecutors to bring prosecutions against large corporations and senior executives. Despite the consultation closing in March 2017, the government has shown little appetite for making available the required Parliamentary time for progressing this legislation.</p> <p>In March 2017, the OECD Working Group on Bribery issued its report of the Phase 4 review of foreign bribery enforcement in the UK. While acknowledging the advancements in recent years which have led to the UK being considered one of the “major enforcers” and the significant effect that the UKBA has had on large corporates’ adoption of compliance measures, the OECD observed that there had been no prosecution of foreign bribery or related offenses involving the UK’s Overseas Territories, the SFO remained dependent on bespoke funding from government for “blockbuster” cases, and the number of prosecutions remained relatively low with detection by a number of law-enforcement agencies seemingly nonexistent.</p> <p>In December 2017, the UK government published its Anti-Corruption Strategy document which sets out more than 100 commitments on a wide range of corruption-related issues, from corrupt insiders in prisons to the risks associated with London’s financial industry. In December 2018, the government published its first update on the Strategy document and noted that 25 out of 30 commitments due to be implemented by end 2018 had been fully completed.</p>
<p>Participation in International Anti-Corruption Conventions</p>	<p>OECD Convention</p>	<p>Yes</p>
	<p>UNCAC</p>	<p>Signed December 9, 2003 Ratified February 9, 2006</p>
<p>Last Updated</p>		<p>January 17, 2018</p>

Region		Middle East
Country		Qatar
2018 CPI	Rank	33/180
	Score	62
The Law on Bribery	Bribery of Domestic Officials	<p>While Qatar does not have a stand-alone anti-corruption statute, corruption is criminalized pursuant to several laws, including the Penal Code of Qatar (Law No. 11 of 2004) (“Penal Code”), the Human Resources Law (Law No. 8 of 2009), and the Tenders and Auctions Regulations (Law No. 26 of 2005).</p> <p>The Penal Code provides for the following offenses and penalties:</p> <p><u>Offering or attempting to offer a bribe:</u> It is an offense to offer, including acting as an intermediary between the giver and the receiver, any money, benefits, or promises to a Government Employee (Penal Code, Arts. 140-141).</p> <ul style="list-style-type: none"> • If the Government Employee accepts what was offered or promised to him, the offeror is subject to imprisonment for a period not exceeding 10 years and a fine not exceeding the amount that was offered, given, or promised, provided that the fine is not less than QAR 5,000 (~USD 1,374) (Penal Code, Arts. 140-141). • If the Government Employee refuses what was offered or promised, the offeror is subject to imprisonment for a period not exceeding five years and a fine not exceeding QAR 15,000 (~USD 4,121) (Penal Code, Art. 145). <p>Penalties against an offeror may be mitigated if the offeror informs the authorities of the offense and said information leads to the arrest of any of the perpetrators (Penal Code, Art. 144).</p> <p><u>Receiving a bribe:</u> It is an offense for any Government Employee to ask for or accept, for himself or another, any money, benefits, or promises in exchange for influencing or undertaking any official act or abstaining from any official act, even where the Government Employee mistakenly believes or pretends that the act or omission is within his authority when it is not (Penal Code, Arts. 140, 142-144, 154). Applicable penalties may vary based on the nature of the act. For example:</p> <ul style="list-style-type: none"> • If a Government Employee accepts what was offered or promised to him, the Government Employee is subject to imprisonment for a period not exceeding 10 years and a fine not exceeding the amount that was offered, given, or promised, provided that the fine is not less than QAR 5,000 (~USD 1,374) (Penal Code, Arts. 140). • If a Government Employee accepts any money or benefit after undertaking or abstaining from an official act with the intention of obtaining the benefit even where there was no previous agreement, the Government Employee is subject to imprisonment for a period not exceeding seven years and a fine not exceeding QAR 15,000 (~USD 4,121) (Penal Code, Art. 142). <p>In addition to these penalties, the bribe or gift provided may be confiscated, and the Government Employee may be dismissed from public office (Penal Code, Art. 147).</p> <p><u>Acting as an intermediary:</u> It is an offense to act as an intermediary between the briber and the recipient to offer any money, benefits, or promises to a Government Employee (Penal Code, Arts. 140-141). Intermediaries are subject to the same penalties as offerors and recipients, and the penalties against an offeror may be mitigated if the offeror informs the authorities of the offence and said information leads to the arrest of any of the perpetrators (Penal Code, Arts. 140-141, 144).</p> <p><u>Public contracts:</u> Pursuant to the Tenders and Auctions Regulations, any public sector contracts that involve bribery must be cancelled.</p> <p><u>Corporate liability:</u> Under Art. 37 of the Penal Code, corporations (other than ministries, government departments, and public organizations and institutions) will be found liable for any offenses committed on their behalf or in their name by their representatives,</p>

		managers, or agents. A corporation may be subject to fines, confiscation, or other criminal penalties set out in the Penal Code. If a punishment other than a monetary fine is imposed, the corporations shall not be fined in excess of QAR 500,000 (~USD 137,363). Corporate criminal liability does not prevent the offender from being personally liable for the bribe (Art. 37).
	Bribery of Foreign Officials	Qatar does not currently have any laws that prohibit bribery of foreign government officials.
	Commercial Bribery	Qatar criminalizes passive bribery in the private sector. The Penal Code provides that any employee who asks for himself or for another party any money, profit, or promise without the knowledge of his employer and his employer’s consent to undertake any of the acts assigned to him or abstain from said act, shall be considered a receiver of a bribe under the law (Penal Code, Art. 146).
Definitions	Government Employee	<p>“Public Employees” are defined as those charged with public service and include employees of ministries, government agencies or offices, and public organizations and institutions. For purposes of the anti-corruption provisions of the Penal Code, a Public Employee may include:</p> <ul style="list-style-type: none"> • Arbitrators, experts, receivers in bankruptcy, liquidators, and sequestrators; • Board of director heads and members, managers, and all other employees in private institutions, associations, companies, and cooperative associations, if one of the ministries or one of the other governmental offices or public institutions or organizations participate in it; • Anyone engaged in public service upon official instruction from a public employee; and • Heads and members of municipal and legislative councils, and others who have public parliamentary capacity whether elected or appointed. <p>The definition of a “Public Employee” will apply whether or not the employee is paid or unpaid, temporary or permanent, or voluntary or obligatory. Further, the definition includes employees of state-owned and state-controlled companies.</p>
	Gratification (Gifts/ Entertainments/ etc)	<p>Although the Penal Code does not define “gratification,” the term “benefit,” as used in the aforementioned anti-bribery provisions, appears broad enough to apply to various forms of gifts or entertainment.</p> <p>Facilitation payments are not expressly covered under the Penal Code. However, as with gratification, the term “benefit” may be broad enough to cover such payments irrespective of the lawfulness of the underlying act being performed in return.</p>
Current Status	Enforcement Body	<p>The key Qatari anti-corruption enforcement institutions are:</p> <ul style="list-style-type: none"> • The Public Prosecution Office, which has a dedicated department handling corruption cases. • The Administrative Control and Transparency Authority (“ACTA”), established pursuant to Emiri Decision No. 75 of 2011, whose chairman (as of a reorganization pursuant to Emiri Decree No. 6 of 2015) reports directly to the Emir. The ACTA has broad powers to prevent and investigate corruption and oversee government agencies and the handling of public funds. • The Qatar Financial Information Unit (“FIU”), which has a key role in combating corruption and money laundering.
	Issues in Enforcement	<p>In February 2015, the Public Prosecution Office launched an advertising campaign urging Qatari residents to act as government whistleblowers and report financial corruption in government organizations.</p> <p>In May 2016, the General Assembly of the International Association of Anti-Corruption Authorities (“IAACA”), a non-governmental organization affiliated with the United Nations, unanimously elected Qatar’s Attorney General, Dr. Ali bin Fetais Al Marri, to</p>

		<p>serve as President of the IAACA. Dr. Al Marri has called on all states to become parties to the IAACA.</p> <p>Allegations concerning Qatar’s use of corrupt methods to obtain the hosting rights for the 2020 FIFA World Cup have been reported by the press since 2016. The reports resurfaced in March 2019 with the specific allegation that Qatar offered FIFA USD 880 million in an effort to secure the hosting rights. In June 2019, the former UEFA president, Michel Platini, was arrested in connection with the ongoing investigations.</p>
	Recent Movement	<p>In October 2016, Qatar implemented Law No. 11 of 2016, which was designed to increase scrutiny of public money in a new effort to combat corruption by providing greater financial authority and independence to the State Audit Bureau.</p> <p>In 2018, Qatar launched a journal on the rule of law and anti-corruption entitled Rule of Law and Anti-Corruption Center or “ROLACC.”</p> <p>In January 2019, ROLACC signed a cooperation agreement on fighting sport corruption with the United Nations Office on Drugs and Crime.</p>
Participation in International Anti-Corruption Conventions	OECD Convention	No
	UNCAC	<p>Signed: December 1, 2005</p> <p>Ratified: January 30, 2007</p>
Last Updated		July 22, 2019

Region		Middle East
Country		Saudi Arabia
2018 CPI	Rank	58/180
	Score	49
The Law on Bribery	Bribery of Domestic Officials	<p>Saudi Arabia’s efforts to eliminate corruption from the public sector are primarily based on the Combating Bribery Law (“CBL”) under Royal Decree No. M/36 dated 29/12/1412 A.H. (corresponding to June 30, 1992). The CBL penalizes the offering of any promise or gift to a public official (as defined below) to perform, cease to perform, or neglect any of the public official’s duties or to use the public official’s powers to obtain from any public authority an order, decision, commitment, authorization, supply contract, job, employment, service, or any other kind of privilege, or to use the public official’s powers to influence a transaction in any governmental department.</p> <p>The CBL applies to individuals (including public officials) and organizations in Saudi Arabia. Foreign companies doing business in Saudi Arabia, with or without a formal legal presence in the country, are also subject to the CBL with respect to their in-country actions.</p> <p><u>Penalties:</u> The penalties set out in the CBL for individual violators (including public officials and principals of companies) vary depending on the offense and may include:</p> <ul style="list-style-type: none"> • Up to 10 years’ imprisonment; • Fines of up to 1 million Saudi Riyals (~USD 266,667); • Confiscation of any benefit derived from the offense; or • Any or all of the foregoing penalties. <p><u>Corporate liability:</u> In the case of companies or establishments whose manager or employee is convicted of a crime under the CBL and where it is proven that the crime was committed in the company’s interest, penalties under the CBL may include:</p> <ul style="list-style-type: none"> • Fines of up to 10 times the amount of the bribe; and/or • Prohibition of purchase contracts, execution of projects, or any other work with Saudi ministries, government interests, or public instrumentalities with juristic personality. <p>The foregoing penalties may be imposed on companies or individual establishments on a strict liability basis. The person offering the bribe and any intermediary may be exempt from penalties under the CBL if they voluntarily inform the authorities before the crime is discovered by the authorities.</p> <p><u>Whistleblower rewards:</u> No specific requirement obligates a commercial organization to self-report any act of bribery that it discovers. However, a whistleblower reward scheme is available under the CBL by which any person who is not a briber, participant, or intermediary, and who provides information to the authorities leading to successful proof of a crime set out in the CBL, can receive a reward of no less than 5,000 Saudi riyals (~USD 1,333) and up to half of any monetary amount that is confiscated by the authorities. The authorities have discretion to offer higher rewards in certain cases.</p> <p>The CBL prohibits anyone from exercising influence over public officials by means of (unauthorized) requests, recommendations, or intermediary actions in order to cause public officials to perform or cease to perform their duties.</p>
	Bribery of Foreign Officials	Saudi Arabia does not have a separate statute dealing with bribery of foreign public officials by Saudi persons. The Saudi government has not indicated whether the CBL may be construed to apply to the bribery of foreign public officials by Saudi persons.
	Commercial Bribery	The CBL does not specifically prohibit commercial bribery. However, the law broadly defines “public officials” to include several non-state actors.

Definitions	Government Employee	<p>The term “public official” is defined as including:</p> <ul style="list-style-type: none"> • Individuals who are employed, whether permanently or temporarily, by the state or public instrumentalities with juristic personality; • Judges or experts appointed by the government or committees with judicial competence; • Any person assigned by any government institution or any other administrative authority to perform a given assignment; • Any person employed by companies or individual establishments that undertake the management, operation, or maintenance of public facilities or that directly undertake public service; • Any person who works for joint stock companies and for companies in which the government has contributed capital and companies or individual establishments engaged in banking activities; and • Presidents and directors of any organization mentioned in the foregoing paragraphs.
	Gratification (Gifts/ Entertainments/ etc.)	<p>A promise or gift includes any advantage or benefit of any type or tangibility. Corporate hospitality and entertainment expenses viewed as “gifts” may be considered bribes.</p> <p><u>Facilitation payments</u>: The CBL does not specifically address facilitation payments but likely prohibits them. It is irrelevant that a public official accepted a gift to perform an act where the act itself is otherwise lawful. Further, it is unlawful to provide a gift to a public official in exchange for influencing a transaction in any governmental department.</p>
Current Status	Enforcement Body	<p>The National Anti-Corruption Commission (“NACC”) was established under the National Anti-Corruption Commission Law (“NACC Law”), under Council of Ministers Resolution No. 165 dated 28/5/1432 A.H. (corresponding to May 2, 2011). The NACC is tasked with addressing all forms of corruption in Saudi Arabia and reports directly to the King. Other Saudi agencies, including the Commission for Investigation and Prosecution and the General Auditing Bureau, also play important roles in implementing anti-corruption rules.</p> <p>The Supreme Anti-Corruption Committee (“SACC”) is another Saudi enforcement body, established under Royal Decree No. A/38 dated 15/2/1439 A.H. (corresponding to November 5, 2017). This committee consists of the presidents of the Commission for Investigation and Prosecution, the General Auditing Bureau, the NACC, and State Security, as well as the Attorney General, and is headed by the Crown Prince. The SACC has been formed to identify offenses and persons/entities involved in public corruption and to take all necessary and precautionary measures with regard to fighting corruption, including by conducting investigations, issuing arrest warrants, imposing travel bans, and tracking and freezing accounts, funds, and assets. The SACC is not bound by existing laws and regulations in conducting its activities.</p>
	Issues in Enforcement	<p>While the NACC has undertaken several measures to tackle corruption in the public sector (such as pressing for greater transparency in all dealings of Saudi government agencies), the body has also complained that the lack of proper coordination with the different government agencies is hindering its progress. The NACC is authorized only to refer its investigations to other competent Saudi agencies and to the King directly (NACC Law, Article 3.3).</p> <p>However, in 2016, the NACC’s coordination with different government agencies strengthened. The NACC succeeded in investigating the employment contract of a minister’s son with a Saudi ministry and announced the outcome of its investigation publicly. Having gained greater experience, the NACC has also begun conducting more investigations and taking quicker action against different aspects of corruption; this has led to efforts to improve performance.</p> <p>The formation of the SACC in late 2017 has perhaps closed the gap between the NACC’s ability to report on corruption and the actions that may be taken by the authorities to combat corruption, as the SACC now has the clear mandate to engage directly with those it suspects of being corrupt individuals or entities.</p>

	<p>Recent Movement</p>	<p>A 2014 report of the NACC shows that it has received and dealt or dispensed with more than 22,000 citizens' reports (complaints) relating to corruption.</p> <p>The government's Saudi Arabia Vision 2030 document (published April 2016) has placed additional responsibility upon the NACC and all other Saudi government entities. Vision 2030 aims to promote greater levels of coordination and transparency.</p> <p>In 2016, the NACC came under increasing pressure from the national press, which it sought to address. The NACC announced violations by 10 Saudi government agencies, including breaches in the regulatory requirements for contracting with Saudi employees.</p> <p>The formation of the SACC was immediately followed by a very public series of arrests, including of members of the Saudi ruling family, serving ministers, and prominent business people on November 5, 2017. Following the 2017 arrests and the settlements thereafter, the SACC announced that it had accomplished its mission and successfully recovered 400 billion Saudi riyals (~USD 107 billion) in illegally obtained assets, real estate, and cash.</p> <p>After these events, the NACC's statistics showed that the number of corruption reports received by the NACC had increased by 50% in 2018.</p>
<p>Participation in International Anti-Corruption Conventions</p>	<p>OECD Convention</p>	<p>No</p>
	<p>UNCAC</p>	<p>Signed January 9, 2004 Ratified April 29, 2013</p>
<p>Last Updated</p>		<p>July 22, 2019</p>

Region		Middle East
Country		United Arab Emirates
2018 CPI	Rank	23/180
	Score	70
The Law on Bribery	Bribery of Domestic Officials	<p>Although the UAE does not have a stand-alone anti-corruption statute, corruption (including the bribery of domestic and foreign officials) is prohibited pursuant to several federal and emirate-level statutes, regulations, and codes of conduct. These include: the Federal Penal Code (Federal Law No. 3 of 1987, as amended by Law No. 24 of 2018); the penal codes of individual Emirates (e.g., the Dubai Penal Code); the Federal Human Resources Law (Federal Decree Law No. 11 of 2008) and related legislation; the human resources laws of the individual emirates (e.g., Abu Dhabi Law No. 1 of 2006, Dubai Law No. 27 of 2006); the Dubai Financial Fraud Law (Dubai Law No. 37 of 2009); and various ministerial and department-level codes of conduct.</p> <p>The key provisions related to bribery of a Government Employee (as defined below) are contained in the Federal Penal Code and are described below.</p> <p><u>Offering a bribe:</u> It is a crime to offer or promise a Government Employee a donation or advantage of any kind, in exchange for the Government Employee committing or omitting any act in violation of his/her duties. The penalties include up to five years' imprisonment (Federal Penal Code, Art. 237).</p> <ul style="list-style-type: none"> • In Dubai: It is a crime to offer or give gratification to a Government Employee in exchange for an official act. The penalties include up to two years' imprisonment and/or a fine of up to AED 3,000 (~USD 816) (Dubai Penal Code Art. 120). <p><u>Receiving a bribe:</u> It is a crime for a Government Employee to solicit or accept, for himself/herself or another, a donation, an advantage of any kind, or a promise of such advantage in order to: commit or omit an act <i>in violation of his/her official duties</i> (even if the Government Employee refrains from committing or omitting the act) (Federal Penal Code, Arts. 234-235), for which Government Employees are subject to up to 10 years' imprisonment; or commit or omit an act <i>not a part of his/her official duties</i> (Federal Penal Code, Art. 236), for which Government Employees are subject to up to five years' imprisonment.</p> <ul style="list-style-type: none"> • In Dubai: A public servant taking gratification for an official act is subject to up to three years' imprisonment and/or a fine of up to AED 5,000 (~USD 1361) (Dubai Penal Code, Art. 118). <p><u>Corporate liability:</u> The Federal Penal Code generally adopts the principle of criminal liability of legal persons (e.g., corporations) for bribery offenses.</p> <p>With the exception of governmental agencies and their official departments, corporations are liable for criminal acts committed on their account or in their name by their representatives, directors, and agents. A corporation may be subject to fines, confiscation, or other criminal penalties set out in the Federal Penal Code, provided that if a punishment other than a monetary fine is imposed, the punishment for the corporation shall be restricted to a fine of up to AED 500,000 (~USD 136,054) (Article 65 of the Federal Penal Code, as amended). Corporate criminal liability does not prevent the offender from being personally liable for the bribe (Federal Penal Code, Art. 65).</p>
	Bribery of Foreign Officials	<p>The Federal Penal Code prohibits the solicitation, acceptance, or promise of a bribe to or by a foreign public official or employee of an international organization (Federal Penal Code, Arts. 234, 237).</p> <p>The term "foreign public official" is defined in the Code as any person who occupies a legislative, executive, administrative, or judicial position in another country, whether permanent or temporary, and whether he is elected or appointed, with or without a salary, and any person entrusted with public service functions (Article 6 <i>bis</i> 1).</p>

		<p>The term “employee of an international organization” is defined as any person who occupies a position in an international organization or is authorized by such organization to act on its behalf (Article 6 <i>bis</i> 1).</p> <p>Articles 234 and 237 of the Code (regarding solicitation, acceptance, and promise of a bribe) were also amended to incorporate these new terms and thereby criminalize bribery involving foreign public officials and employees of international organizations.</p>
	<p>Commercial Bribery</p>	<p>The Federal Penal Code prohibits members of the board of directors of a company, a private establishment, a cooperative association, or a public benefit association, or its managers and employees, from receiving bribes in exchange for committing or omitting an act in violation of their duties (Federal Penal Code, Art. 236 <i>bis</i>). Offenses are punishable by up to five years’ imprisonment.</p> <p>The Federal Penal Code does not expressly criminalize the act of giving or offering a bribe within the private sector, nor does it expressly penalize the offeror of such a bribe. Nevertheless, because the receipt of a bribe within the private sector is an offense under the Federal Penal Code, the act of giving or offering such a bribe may be prosecuted as criminal participation or complicity in a criminal activity (Federal Penal Code, Art. 44-45).</p>
<p>Definitions</p>	<p>Government Employee</p>	<p>Under Article 5 of the Federal Penal Code, as amended, the term “public service employees” refers to individuals who are:</p> <ul style="list-style-type: none"> • Entrusted with public authority, or working in ministries and government departments; • Members of judicial authorities in addition to chairmen and members of legislative, consultative, and municipal councils; • Members of armed forces; • Entrusted by public authority for a specific job; • Chairmen and members of boards of directors, managers, and all other employees working in associations, public corporations, and companies partially or wholly owned by the federal government or local governments; • Chairmen and members of boards of directors, managers, and all other employees working in associations and public welfare institutions; and • Employees of any security authority. <p>Additionally, Article 236 of the Federal Penal Code, as amended, now considers arbitrators, experts, and investigators as public employees for the purposes of Articles 234 and 237.</p>
	<p>Gratification (Gifts/ Entertainments/ etc.)</p>	<p>In general, any type of gift, travel expense, meal, or entertainment is prohibited under the Federal Penal Code and other anti-corruption laws if it can lead to a conflict of interest. The legitimacy of any such benefit depends on its value, frequency, and the intention behind it. The Federal Human Resources Law does, however, allow some organizational units (specified by the ministry) to receive gifts that are symbolic advertising or promotional in nature and that bear the name of the offeror.</p> <p>Facilitation payments are covered by Articles 234 and 237 of the Federal Penal Code, which prohibit the offer or acceptance of gifts or benefits by relevant persons in return for the performance (or non-performance) of acts included in the relevant persons duties. Relevant persons for the purpose of these Articles include public servants, foreign public servants, employees of international organizations, arbitrators, experts, and investigators.</p>
<p>Current Status</p>	<p>Enforcement Body</p>	<p>There is a dedicated anti-corruption unit under the Defense Ministry as well as within police departments. The State Audit Institution (“SAI”) is primarily responsible for auditing the spending of public funds. It also has broad authority in handling fraud and corruption. The SAI may independently initiate corruption investigations and may refer complaints or cases to the police or the public prosecutor. Also, the SAI operates a system through which users can report suspected instances of fraud or corruption. The SAI is responsible for auditing approximately 70 government or semi-government bodies in the UAE, 12 of which are corporations wholly or partially owned by the federal government.</p> <p>Additionally, the Abu Dhabi Accountability Authority (“ADAA”) is responsible for ensuring compliance by public entities within the Emirate of Abu Dhabi. In May 2015, the Crown Prince of Abu Dhabi approved a new anti-corruption unit led by the ADAA. The new unit investigates government bodies that may be involved in corruption or</p>

		<p>financial breaches, examines legislation and internal audit regulations, and tests financial and administrative systems. Working with the unit, the ADAA is responsible for drafting appropriate legislation; developing and implementing procedures to eliminate financial crimes; and formulating policies for investigating violations involving abuse of public funds and public office, conflicts of interest, profiteering from government contracts, and fraud.</p>
	<p>Issues in Enforcement</p>	<p>The UAE has generally been praised in the press for its efforts in the fight against corruption, as summarized below.</p> <p>In 2001, the Director General of Dubai’s Ports and Customs Department and a number of other government officials were arrested for graft and embezzlement. Since then, and particularly after the financial crisis, there have been a number of high-profile anti-corruption cases.</p> <p>It has been reported that a team of international experts who reviewed the UAE’s compliance with the UNCAC in January 2013 hailed the measures taken by the UAE government to prevent corruption but also stressed a need for additional legal tools, such as ways to protect witnesses and informants.</p> <p>In 2015, the ADAA reported that it had received complaints about government employees, including one complaint regarding an accounting supervisor who embezzled funds within his custody. The matter was referred to the public prosecutor’s office, and the court issued a judgment against the defendant. The defendant was ordered to return the embezzled funds, was fined the amount of funds embezzled and sentenced to five years in prison, and was ordered to be deported.</p> <p>In 2016, the SAI disclosed a case of waste and misappropriation of more than AED 5.5 million in public funds (~USD 1.5 million). The president of the SAI, H.E. Dr. Hareb Alamimi, said that public and private sector employees had been involved in forging official documents and profiteering. The defendants were ultimately convicted and sentenced to prison. The president has made assurances that those who report a suspected instance of corruption to the SAI shall be protected under UAE law and shall not have their identity disclosed without their consent. He has further indicated that a report submitted to the SAI should be made in good faith and should include enough specificity so as to allow the SAI to properly investigate.</p> <p>In January 2016, a visa officer was jailed for one year and fined AED 150,000 (~USD 40,816) for accepting AED 400,000 (~USD 108,844) in bribes in exchange for illegally changing the visa statuses of a number of visitors.</p> <p>In March 2016, a purchasing manager at an oil company was jailed for three years after he was found guilty of accepting a bribe of AED 150,000 (~USD 40,816) in return for awarding a tender to a supplier of the oil company.</p> <p>In October 2016, a Sharjah police officer was jailed for three years and fined AED 3,000 (~USD 816) for accepting a bribe of AED 3,000 (~USD 816) to release a prisoner.</p> <p>Also in October 2016, three employees of the Ministry of Labor were alleged to have forged labor transactions in exchange for AED 4.2 million (~USD 1.15 million). The trial was adjourned and details of the proceedings are yet to be reported.</p> <p>In March 2017, an Emirati corporal at the General Directorate of Residency and Foreigners Affairs (“GDRFA”) was sentenced to three years in prison for seeking and accepting AED 30,000 (~USD 8163) worth of bribes from nine persons in return for unlawfully issuing them exit passes. The court ordered the defendant to pay AED 975,700 (~USD 265,497) worth of fines and to return to GDRFA the amount of AED 445,700 (~USD 121,279) owed by the nine individuals.</p> <p>In May 2017, following a 15-month investigation, an Emirati employee at the Criminal Rulings Execution Section of the Dubai Public Prosecution was alleged to have accepted more than AED 154,000 (~USD 41,905) in bribes to access and change 103 rulings in absentia stored in the Section’s internal classified filing system. The case involves other individuals as well, including four Indian nationals, a Jordanian national, and a Yemeni national. The employee was sentenced to 10 years in prison in late February 2018.</p>

		<p>In July 2017, an Emirati ex-senior manager of a Dubai-based ports company was charged with soliciting AED 4,800,000 (~USD 1,306,122) in bribes to help contractors secure project tenders between 2012 and 2014. A Syrian national and a Lebanese national were charged with aiding and abetting the ex-senior manager and forging documents. Two managers for the contractors, an Egyptian national and a Jordanian national, were charged with offering to bribe a public employee. In August 2018, the Emirati ex-senior manager was sentenced to 18 months in jail and fined AED 4,850,000 (~USD 1,319,728). The Syrian national accused of aiding and abetting received a suspended one-year sentence due to her testifying against her manager, while the Egyptian, Jordanian, and Lebanese nationals were all sentenced to one year of imprisonment. The four expatriate defendants will also be deported following the completion of their jail sentences.</p> <p>In June 2018, two energy company employees were each sentenced to five years in jail for trading confidential information about their company for a bribe of AED 300,000 (~USD 81,633). The employees, an Emirati man and an Arab national, were both found guilty of taking bribes and breaching their duties. In addition to their prison sentences, the men were also ordered to pay fines equivalent to the value of the bribes they had taken. The convictions were secured on the basis of phone records and photographs.</p>
	Recent Movement	<p>On April 18, 2016, Law No. 4 of 2016 established the Dubai Economic Security Centre (“DESC”). The DESC has broad powers to tackle financial crimes by investigating suspected instances of fraud, bribery, money laundering, and other forms of corruption.</p> <p>In December 2016, His Highness Sheikh Mansour bin Zayed Al Nahyan, the UAE Deputy Prime Minister and Minister of Presidential Affairs, officially opened the 22nd International Congress of Supreme Audit Institutions (“INCOSAI”), hosted in Abu Dhabi. INCOSAI is the supreme body of the International Organisation of Supreme Audit Institutions (“INTOSAI”), which is a non-governmental and independent umbrella organization for external government auditors. During the 2016 gathering in Abu Dhabi, the UN Secretary-General urged the Congress to strengthen its fight against corruption and highlighted the critical role played by auditors.</p> <p>It has been reported that the SAI has been drafting the UAE’s first stand-alone anti-corruption law (which will be separate from the various anti-bribery provisions found in the Penal Code and other local laws). This law is expected to address the UAE’s commitments under the UNCAC and would likely cover the bribery of foreign officials. The draft law appears to have been discussed in the UAE cabinet and the UAE Federal National Council before being submitted to the UAE Federal Supreme Council for ratification; however, no time frame has been provided for such ratification.</p>
Participation in International Anti-Corruption Conventions	OECD Convention	No
	UNCAC	Signed August 10, 2005 Ratified February 22, 2006
	Arab Anti-Corruption Convention	Signed December 21, 2010
Last Updated		July 22, 2019

Region		North America
Country		Canada
2018 CPI	Rank	9/180
	Score	81
The Law on Bribery	Bribery of Domestic Officials	<p>The Canadian Criminal Code (“Criminal Code”) contains the main laws that prohibit the bribery of domestic officials. Other laws also include provisions that specifically outlaw the bribery of particular groups of people (e.g., the Financial Administration Act prohibits the bribery of officials involved in the collection/disbursement of public money; the Royal Mounted Police Act prohibits bribing members of the Royal Canadian Mounted Police).</p> <p><u>Offering a bribe:</u> It is a crime to give, offer, or agree to give an official a loan, reward, advantage, or benefit as consideration for assistance, exercise of influence, or an act or omission in connection with any matter of governmental business: up to five years’ imprisonment (Criminal Code sec. 121(1)(a)(i)).</p> <p><u>Receiving a bribe:</u> It is a crime for an official to receive a loan, reward, advantage, or benefit, or a promise for such as consideration, for exercising the official’s position and influence in connection with governmental business on behalf of the person offering the bribe: up to five years’ imprisonment (Criminal Code sec. 121(1)(a)(ii)).</p> <p>Other offenses for bribery of specific groups (all sections apply to both the offeror and the recipient of the bribe):</p> <ul style="list-style-type: none"> • Judicial officers and members of parliament or provincial legislatures: up to 14 years’ imprisonment (Criminal Code sec. 119). • Law enforcement officials and others involved in criminal law: up to 14 years’ imprisonment (Criminal Code sec. 120). • Municipal officials: up to five years’ imprisonment (Criminal Code sec. 123). <p><u>Corporate liability:</u> Under the Criminal Code, a corporation or organization can be held criminally liable if a senior officer (interpreted widely to include personnel with decision-making authority on corporate policy) participated in the act with an intention to benefit the corporation or organization (Criminal Code sec. 22.2). A corporation may also be held liable if it knew of the officer’s intention to commit an act but failed to stop it.</p> <p>The Criminal Code also prohibits conspiracies, attempts, aiding, abetting, counseling others to commit, and being an accessory after the fact to offenses under the Criminal Code (Criminal Code sec. 20-24 and 463-465).</p>
	Bribery of Foreign Officials	<p>The Corruption of Foreign Public Officials Act, SC 1998, c 34, as amended (“CFPOA”), is the Canadian law that specifically prohibits the bribery of foreign public officials. The CFPOA criminalizes the acts of giving, offering, or agreeing to give a loan, reward, advantage, or benefit of any kind to a foreign public official in return for an advantage or benefit of any kind in the course of business (CFPOA sec. 3). The CFPOA also prohibits the acts of conspiracy to commit, attempting to commit, being an accessory after the fact in relation to, or counseling other parties to commit offenses under the CFPOA (CFPOA sec. 5).</p> <p>In 2013, Canada significantly strengthened the CFPOA scope and penalties, including by adding a new offense which expanded the grounds for criminal liability for corporations and their directors, officers, and employees. As a result of these amendments to the CFPOA:</p> <ul style="list-style-type: none"> • Canadian companies and individuals who are involved in the bribery of foreign public officials are now subject to Canadian law regardless of where the acts constituting the offense took place, and even if there is no connection with Canada other than their nationality (i.e., jurisdiction can be based on either territoriality or nationality) (CFPOA sec. 5); • The maximum penalty for individuals has been increased from five years’ to 14 years’ imprisonment (CFPOA sec. 3(2) and 4(2));

		<ul style="list-style-type: none"> • Companies and their directors, officers, and employees now face a separate criminal “books and records” offense for misrepresenting or concealing the bribery of foreign public officials in their recordkeeping (CFPOA sec. 4); • The bribery offense has been clarified to apply to all business activities, whether or not they are for profit (CFPOA sec. 2); and • The exception allowing “facilitation payments” (small payments made to an official for the purpose of securing the performance of routine administrative acts that are part of the official’s duties or functions) was eliminated as of October 31, 2017, making Canadian anti-corruption laws among the strictest in the OECD. <p><u>Corporate liability:</u> As noted above, companies can be liable for bribery under the CFPOA. There is no maximum fine that can be imposed on a corporation—the amount is subject to the discretion of the court.</p>
	<p>Commercial Bribery</p>	<p>The Criminal Code prohibits the payment or offering of a secret commission to an agent as consideration for the agent’s performance or omission in relationship to the affairs of the principal. An employee of a private corporation will fall under the definition of an agent (Criminal Code sec. 426).</p> <p>The Criminal Code also imposes an offense for deceiving, falsifying, or otherwise defrauding the public or any person, whether ascertained or not, of any property, money, or valuable security or any service by deceit, falsehood, or other fraudulent means (Criminal Code sec. 380).</p>
<p>Definitions</p>	<p>Government Employee</p>	<p>Under the Criminal Code (which prohibits domestic bribery), an official is a person who holds an office in the government of Canada or a Canadian province, a civil or military commission, a public department or is elected or appointed to discharge a public duty. This is not usually read to include employees of state-owned enterprises, which would be covered by the commercial bribery provisions instead (Criminal Code sec. 118).</p> <p>Under the CFPOA, a foreign public official includes a person who performs public duties or functions for a foreign state, or who holds a legislative, administrative, or judicial position in a foreign state. It also includes officials of a public international organization (CFPOA sec. 2). The definition of a “foreign public official” extends to a person exercising a public function for any level and type of government (including local governments) regardless of whether that function is within the scope of that person’s authority. It may include personnel at state-owned enterprises, tribal leaders who are locally recognized as public officials and personnel employed in quasi-governmental sectors.</p>
	<p>Gratification (Gifts/ Entertainments/ etc.)</p>	<p>Both the Criminal Code and the CFPOA prohibit gifts or benefits of any kind, regardless of how small or nominal, if it is proven that the gifts have resulted in a prohibited influence on the official’s conduct. However, the small amount or nominal value of a gift may help persuade the court that it was immaterial and was not intended to influence the recipient’s actions.</p> <p>The Conflict of Interest Act SC 2006, c 9 (sec 2) prohibits a public office holder or his/her family member from accepting a gift or other advantage, unless it is received as a normal expression of courtesy or protocol, or is within customary standards that normally accompany the public office holder’s position, is permitted under the Canada Elections Act, or is given by a relative or friend (sec 11). The Conflict of Interest Act requires public officials to report gifts or advantages received that total more than \$200 (calculated over a 12-month period) from one source.</p>

<p>Current Status</p>	<p>Enforcement Body</p>	<p>Police forces on all levels (federal, provincial, municipal) have the authority to investigate domestic public bribery cases under the Criminal Code. Prosecutions under the Criminal Code for domestic bribery are within the exclusive jurisdiction of provincial prosecutors.</p> <p>The Royal Canadian Mounted Police (“RCMP”), the Canadian national police, established a national Anti-Corruption Unit in 2008, with two anti-corruption investigative teams (in Ottawa and Calgary) that specialize in enforcing the CFPOA. The RCMP has exclusive authority to lay charges under the CFPOA (CFPOA sec. 6). Prosecutions under the CFPOA for foreign bribery are carried out by the Public Prosecution Service of Canada (the “PPSC”), a federal prosecutorial body which works directly with the RCMP on CFPOA (and other federal government) investigations/prosecutions.</p> <p>Public Services and Procurement Canada administers the Integrity Regime on behalf of the Government of Canada. Pursuant to the Regime, a conviction for bribery of domestic or foreign officials results in debarment from federal government procurements for up to 10 years.</p>
	<p>Issues in Enforcement</p>	<p>Historically, jurisdictional limitations as well as lack of resources and prioritization in the RCMP led to weak enforcement and very few proceedings under the CFPOA. The 2013 amendments to the CFPOA have sought to address these issues. The RCMP has increased the resources dedicated to CFPOA investigations.</p> <p>In addition, providing the RCMP with exclusive jurisdiction and having it work closely with the PPSC should result in a more effective enforcement process for CFPOA cases. However, enforcement in relation to domestic bribery offenses has not been centralized since the cases often have a more local or provincial scope.</p> <p>As of September 2018, amendments to the Criminal Code have introduced a remediation agreement regime (essentially a deferred prosecution agreement), which could be used in cases where avoiding the consequences of criminal convictions for offenses under the CFPOA or the Criminal Code would be appropriate.</p>
	<p>Recent Movement</p>	<p>In May 2014, the first custodial sentence was imposed in a contested prosecution under the CFPOA. Following his conviction in August 2013, Nazir Karigar was sentenced to three years’ imprisonment for conspiracy to bribe a foreign public official (<i>R. v. Karigar</i>). On July 6, 2017, the Ontario Court of Appeal upheld the conviction and confirmed that Canadian courts retain jurisdiction over these types of offenses even when the bribery itself occurs outside of Canada.</p> <p>In January 2019, Robert Barra and Shailesh Govinda were also convicted under the CFPOA (<i>R v. Barra and Govinda</i>) in connection with the same conspiracy addressed in <i>R v. Karigar</i>. In March 2019, both men received sentences of two-and-a-half years’ imprisonment. Notably, Barra and Govinda are not Canadian and were extradited from the United States and United Kingdom, respectively, to face trial in Canada.</p> <p>In February 2015, charges were laid against SNC-Lavalin for fraud and for alleged violations of the CFPOA. The allegations involved bribery of foreign officials in relation to work done in Libya. In October 2018, it was announced that the Director of Public Prosecutions (the head of the PPSC) had informed SNC-Lavalin it would not be invited to negotiate a remediation agreement. SNC-Lavalin brought an unsuccessful application for judicial review of the director’s decision. In May 2019, a judge of the Court of Quebec ruled at a preliminary inquiry there is enough evidence to send SNC-Lavalin to trial. No date has been set for the trial.</p> <p>Between 2011 and 2016, there was an extensive judicial inquiry into corruption in the construction industry in Quebec, which involved bribery of public officials as well as bid-rigging and other offenses. More than 300 people and companies have been charged since 2011 by Quebec’s anti-corruption police force, <i>Unité permanente anti-corruption</i>, or UPAC.</p> <p>The Extractive Sector Transparency Measures Act, SC 2014, c 39, s 376 (“ESTMA”) came into force June 1, 2015, and requires businesses involved in the exploration or extraction of oil, gas, or minerals to publicly report each year on specific types of payments made to all levels of government, in Canada and abroad (ESTMA sec 9-12). It also contains record-keeping requirements (sec. 13).</p>

Participation in International Anti-Corruption Conventions	OAS Convention	Signed June 7, 1999 Ratified June 1, 2000
	OECD Convention	Signed December 17, 1997 Ratified December 17, 1998
	UNCAC	Signed May 21, 2004 Ratified October 2, 2007
Last Updated		June 21, 2019

Region		North America
Country		Mexico
2018 CPI	Rank	138/180
	Score	28/100
The Law on Bribery	Bribery of Domestic Officials	<p>Relevant Statutes and Governmental Guidelines</p> <p>Mexican Political Constitution (<i>Constitución Política de los Estados Unidos Mexicanos</i>).</p> <p>In 2016, the laws regulating Mexico’s new national anti-corruption system were published in the Federal Official Gazette (<i>Diario Oficial de la Federación</i>) (“Decree”). The purpose of the national anti-corruption system is to coordinate the efforts of all Mexican governmental bodies at the federal, state, and municipal levels that are involved in anti-corruption enforcement. These laws apply to both public servants and private parties, including companies and their directors, officers, and employees. The Decree resulted in the establishment of the most far-reaching anti-corruption enforcement system to date in Mexico. The laws under the national anti-corruption system include:</p> <ul style="list-style-type: none"> • Federal Criminal Code (<i>Código Penal Federal</i>) • General Law on Administrative Accountability (<i>Ley General de Responsabilidades Administrativas</i>) • General Law of the National Anti-Corruption System (<i>Ley General del Sistema Nacional Anticorrupción</i>) • Organic Law of the Administrative Justice Federal Court (<i>Ley Orgánica del Tribunal Federal de Justicia Administrativa</i>) • Federal Accounting and the Accountability Law (<i>Ley de Fiscalización y Rendición de Cuentas de la Federación</i>) • Organic Law of the Federal Administration (<i>Ley Orgánica de la Administración Pública Federal</i>) • Statutory Law of the Attorney General’s Office (<i>Ley Orgánica de la Procuraduría General de la República</i>) • Bribery is punishable under both criminal and administrative laws at the Federal and State level. <p><u>Criminal liability:</u> Under the Federal Criminal Code (<i>Código Penal Federal</i>), it is a crime (Art. 222):</p> <ul style="list-style-type: none"> • For any individual to give, promise, or deliver any benefit to a public servant, in order to induce the public servant to take any action or refrain from taking an action related to his/her duties. • For a public servant to, directly or indirectly, illegally request or receive for his/her own benefit or for the benefit of a third party, money or any other benefit, or to accept any promises, in order to take any action or refrain from taking an action related to his/her duties. • For a federal congressman to, in the performance of his/her duties, and in the context of the approval process of the expenditure budget, directly or indirectly manage or request the allocation of resources in favor of a public entity, demanding or obtaining, for himself/herself or for another, a commission, gift, or consideration, in money or in kind, other than that which is rightful for the exercise of his/her functions; or to grant public contracts for works or services in favor of certain individuals or companies. <p>Depending on the amount or value of the benefit or promise, the sanctions incurred for any of the above conduct are as follows: Individuals can face up to 14 years in prison and a fine of up to 150 times the daily net income of the offender; companies can be subject to: (i) a fine to be determined by the court; (ii) the confiscation of proceeds from the crime; (iii) dissolution; and (iv) other sanctions as determined by criminal laws.</p> <p><u>Corporate liability:</u> Historically in Mexico, only individuals could commit crimes, and companies would only be jointly liable to cover the damages caused by their employees, officials and/or representatives during the commission of a crime. Under the Criminal Code</p>

		<p>for the Federal District (<i>Código Penal para el Distrito Federal</i>) and the National Code of Criminal Procedures (<i>Código Nacional de Procedimientos Penales</i>), companies can now be held criminally liable, as stated above. Thus, if a company is accused of bribing a public servant, both the individuals involved and the company could be subject to criminal liability.</p> <p><u>Administrative liability:</u> Under the General Law on Administrative Accountability (<i>Ley General de Responsabilidades Administrativas</i>), “bribery” is defined as an administrative offense by any individual or company to promise, offer, or deliver any unlawful benefit to one or more public servants, directly or through a third party, in exchange for such public servants to take any action or refrain from taking an action related to their duties or that of another public servant, or to abuse their influence, with the purpose of obtaining or maintaining, for himself/herself or a third party, a benefit or advantage, regardless of the acceptance or receipt of the benefit or the result obtained (Art. 66).</p> <p>Individuals can be subject to the following penalties: (i) a fine of up to twice the benefits obtained or, in case no benefit was obtained, a fine equal to an amount ranging from \$8,449 to \$12,673,500 Mexican pesos (approximately USD 423 to 633,675); (ii) temporary disqualification from participation in public procurement for a period of time ranging from three months to eight years; and (iii) indemnification for the damages and losses caused to the public finances. Companies can be subject to the following penalties: (i) a fine of up to twice the benefits obtained or, in case no benefit was obtained, a fine equal to an amount ranging from \$84,490 to \$126,735,000 Mexican pesos (approximately USD 4,225 to 63,36,750); (ii) temporary disqualification from participation in public procurement for a period of time ranging from three months to 10 years; (iii) suspension of the entity’s business activities for a period of time ranging from three months to three years; (iv) dissolution; and (v) indemnification for the damages and losses caused to the public finances. There is a fine reduction program that allows for a 50% to 70% reduction of the penalty if the conduct is voluntarily disclosed by the offender prior to the authority initiating a sanctioning procedure. Subsequent offenders that come forward can have a reduction of up to 50% provided that new information is brought to the authority’s attention by the offender and up to 30% once the investigation has been initiated.</p> <p>Public servants are also subject to penalties for administrative offenses in violation of the obligations and duties of the position they hold.</p>
	<p>Bribery of Foreign Officials</p>	<p>It is a crime for a person to bribe a foreign public servant (Federal Criminal Code Art. 222 bis).</p> <p>A person may be found guilty of the offense of bribing a foreign public servant if he/she, with the purpose of obtaining or retaining for himself/herself or for another party undue advantages in the development or execution of international business transactions, offers, promises, or gives, whether by himself/herself or through a third party, money or any other gift, whether in assets or services:</p> <ul style="list-style-type: none"> • To a foreign public servant or a third party to have him/her negotiate or refrain from negotiating the performance or resolution of issues related to the functions inherent to his/her job, duty, or commission; • To a foreign public servant or a third party to have him/her perform or resolve any issue that is beyond the scope of the inherent functions of his/her job, duty, or commission; or • To any person to have him/her appear before a foreign public servant and require or propose that he/she performs or resolves any issue related to the inherent functions of his/her job, duty, or commission. <p>A foreign public servant may be: (i) any person who holds a position, duty or, commission in the legislative, executive, or judicial body or in any other autonomous public body at any level of government of a foreign state, whether appointed or elected; (ii) any person who exercises a position of authority in a state-owned enterprise or organization of a foreign state; and (iii) any officer or agent of a public international organization.</p> <p>Any individual found guilty of the offense of bribing a foreign public servant will be subject to the fines and penalties provided for bribery under the Federal Criminal Code. A company</p>

		<p>that incurs liability for such crime can be subject to a fine equivalent to 1,000 times its daily net income, and the competent judge can order the company’s dissolution or the suspension of its activities, depending on the involvement of the management and the damage caused or benefit obtained by the company.</p>
	<p>Commercial Bribery</p>	<p>There is no specific crime of “commercial bribery” in Mexico. Paying or receiving a bribe (<i>soborno</i>) between private persons (as opposed to public servants) is not a crime. However, making payments to an employee of a private company may still bring accessory criminal charges depending on the purpose of the payment, as set forth below.</p> <p>Business dealings between private individuals and companies may constitute a crime under the Federal Criminal Code if one party intends to “defraud” the other, that is, intends to mislead the other party in order to obtain an undue profit from that party. A person commits the crime of fraud (<i>fraude</i>) if he/she misleads another or illegally takes advantage of an error by another person in order to obtain an undue profit from the person misled and/or deceived (Federal Criminal Code, Art. 386).</p> <p>Also, a person commits the crime of fraudulent administration if such person, having been entrusted with the administration or care of another’s goods, with the purpose of profiting, negatively affects the owner of such goods by altering accounting records or conditions of contracts, creating nonexistent operations or expenses or exaggerating the actual operations and expenses, hiding or retaining valuables or using those wrongly, or knowingly carrying out operations against the interest of the owner, to his/her own benefit or the benefit of a third party. An example would be if a person pays a representative of a private company to sign a contract against the best interest of the company he or she represents (Federal Criminal Code, Art. 388).</p> <p>In addition, collusion among competitors in a public procurement process, as well as in international commercial transactions, is punishable under the General Law on Administrative Accountability. Collusion involves the agreement or other actions between private parties with the purpose of obtaining an unlawful benefit or advantage. It is also collusion when private parties agree or enter into contracts, agreements, arrangements, or combinations between competitors whose object or effect is to obtain an undue benefit or cause damage to the Public Treasury or the assets of public entities.</p> <p>When an infraction is made through an intermediary with the purpose of obtaining some benefit or advantage in the public procurement in question for a private party, both will be sanctioned under the law.</p>
<p>Definitions</p>	<p>Government Employee</p>	<p>Public servants include elected representatives, members of the federal and state judiciaries, officials and employees of the Mexican Congress and the Legislative Assembly of the states, the Federal Public Administration and the executive branch of the states, employees of institutions to which the Mexican Constitution grants autonomy, and the local and municipal public servants as provided by state Constitutions (Mexican Political Constitution, Art. 108).</p>

	<p>Gratification (Gifts/ Entertainments/ etc.)</p>	<p>Private Sector</p> <p>Mexico lacks regulations that fully address private commercial bribery; however, the payment or receipt of a bribe between private persons may be prosecuted under another crime such as fraud.</p> <p>Public officer</p> <p>No gifts (amounts) are allowed. Government officials must report any gifts to the relevant internal comptroller office. Failure to report a gift may result in a fine.</p> <p>Article 7 of the General Law on Administrative Accountability establishes the following:</p> <p>“Article 7—Public Servants will observe in the performance of their employment, position or commission, the principles of discipline, legality, objectivity, professionalism, honesty, loyalty, impartiality, integrity, accountability, effectiveness and efficiency that govern the public service. For the effective application of said principles, Public Servants will observe the following guidelines:</p> <p>... II. Act with righteousness without using the employment, position or commission to obtain or pretend to obtain any benefit, personal gain or advantage or in favor of third parties, nor seek or accept compensation, benefits, gifts, presents or offerings from any person or organization.”</p> <p>Likewise, Article 52 of the General Law on Administrative Accountability establishes a prohibition on public servants from receiving any benefit not included in their remuneration as a public servant such as money; valuables; movable or immovable property, including through a sale at a substantially below-market price; donations; services; jobs; and other undue benefits. These prohibitions extend to spouses, consanguineous relatives, or third parties with whom the public servant maintains professional, labor, or business relations, as well as for the partners or companies of the public servant or the aforementioned persons.</p> <p>The above provisions are applicable to public officers and not to the individuals or entities making the gifts. Notwithstanding the above, “any benefit,” regardless of its value, could qualify as bribery if the underlying conduct specifically matches the acts prohibited by the statutes, as bribery is conduct prohibited with respect to both individuals and companies. Similarly, both public servants and private parties are banned from acting with conflicts of interest.</p>
<p>Current Status</p>	<p>Enforcement Body</p>	<p>Criminal liability enforcement can be sought by the Public Prosecutor (<i>Ministerio Público</i>). Currently, administrative liability can be sought by the internal comptroller’s office of the government agencies and entities where the public servant works, and the Federal Ministry of Public Administration in the case of anticorruption enforcement in public procurement processes.</p> <p>Under the General Law on Administrative Accountability, administrative liability is enforced by: (i) the Federal Ministry of Public Administration (<i>Secretaría de la Función Pública</i>) and its counterparts at the State level; (ii) the internal control bodies within public entities and agencies; (iii) the Federal Superior Auditor (<i>Auditoría Superior de la Federación</i>) and the local audit institutions; (iv) the Federal Court of Administrative Justice (<i>Tribunal Federal de Justicia Administrativa</i>) and its counterparts at the State level, which have authority to determine penalties to be imposed for serious administrative misconduct of public officials, private companies and individuals; (v) the Supreme Court (<i>Suprema Corte de Justicia de la Nación</i>), the Federal Judiciary Council (<i>Consejo de la Judicatura Federal</i>) and the local judicial branches and judiciary councils, and (vi) the accountability units of state productive companies.</p> <p>Other authorities have the authority to seek penalties within the scope of their duties.</p>
	<p>Issues in Enforcement</p>	<ul style="list-style-type: none"> • Administrative liability under the General Law on Administrative Accountability is relatively new and has yet to prove its efficacy. • There have been investigatory issues with Mexico’s new accusatory system; further training of public ministry members and judges may be required to improve the potential deficiencies of the system.

	<p>Recent Movement</p>	<ul style="list-style-type: none"> • On December 1, 2018, Andres Manuel Lopez Obrador of the Morena Political Party took office as the new Mexican President. Similarly, on the last elections, the Morena Party won 51.3% of the Mexican Congress. The Morena Party and AMLO represent a new form of government in Mexico and have repetitively said that one fundamental principle of government is the fight against corruption and the austerity of government. • The new administration has announced the cancellation of a number of oil and gas, electricity, and infrastructure projects alleging corruption with Pemex (Mexico’s state oil company) and CFE (Mexico’s federal electricity comission) and Mexico City’s proposed new airport. • President Andres Manuel Lopez Obrador filed before the Mexican Senate an initiative in order to consider as aggravated crime bribery crime, the traffic of influences between public servants and individuals to commit frauds to the public treasury. Such initiative is pending discussion in the Mexican Senate. • The Morena Party filed before the Mexican Senate an initiative in order to eliminate the constitutional protection (<i>fuero</i>) of the President of the Republic, senators and deputies, and Ministers of the Supreme Court of Justice, among others, so that they may be judged under the same conditions as any Mexican citizen. • Investigations led by the Intelligence Unit, part of the Ministry of the Treasury, have been initiated against a number of companies, public officials, and individuals related to the Odebrecht case (a pending case of the former administration).
<p>Participation in International Anti-Corruption Conventions</p>	<p>OAS Convention</p>	<p>Signed March 29, 1996 Ratified May 27, 1997</p>
	<p>OECD Convention</p>	<p>Signed December 17, 1997 Ratified December 14, 2005</p>
	<p>UNCAC</p>	<p>Signed October 31, 2003 Ratified December 14, 2005</p>
<p>Last Updated</p>		<p>June 14, 2019.</p>

Region		North America
Country		United States of America
2018 CPI	Rank	11/180
	Score	71
The Law on Bribery	Bribery of Domestic Officials	<p>Bribery of domestic officials in the United States is prohibited by both federal and state laws. In addition to federal and state laws that expressly prohibit the bribery of public officials, liability may arise under other legal theories such as conspiracy to engage in, or aiding and abetting, bribery.</p> <p><u>Federal law:</u></p> <p>The general federal bribery statute (18 U.S.C. §201) prohibits corruptly giving, offering, or promising anything of value, directly or indirectly, to any public official or person who has been selected to be a public official, or offering or promising a public official or person who has been selected to be a public official anything of value with the intent to: (i) influence any official act; (ii) influence such person to commit, aid, collude in, or allow any fraud in the U.S.; or (iii) induce such person to do or omit to do any act in violation of his/her lawful duty (18 U.S.C. §201(b)(1)). The statute also prohibits public officials from seeking, accepting, or agreeing to accept anything of value for a corrupt purpose (18 U.S.C. §201(b)(2)).</p> <p>The federal program bribery statute prohibits bribery intended to influence or reward an agent of an organization or governmental agency in connection with a transaction involving USD 5,000 or more if such organization or agency receives more than USD 10,000 per year in federal funds (18 U.S.C. §666).</p> <p>Other federal statutes cover certain acts of bribery including bribery of a financial institution examiner (18 U.S.C. §§212, 213), bribery incident to appointment to a public office (18 U.S.C. §§210, 211), bribery for various loan and bank transactions (18 U.S.C. §215), bribery affecting port security (18 U.S.C. §226), and travel in interstate commerce with the intent to commit bribery (18 U.S.C. §1952).</p> <p>Some federal statutes also cover bribery of state officials. The mail and wire fraud statutes and the RICO statute both allow for federal prosecution of state officials who violate state anti-bribery laws (18 U.S.C. §§1341, 1343, 1961(1)(A)). Additionally, the Hobbs Act prohibits both federal public officials and state officials from taking improper payments in exchange for official acts and imposes some of the most severe penalties of all the federal corruption statutes (up to 20 years’ imprisonment) (18 U.S.C. §1951).</p> <p>The federal sentencing guidelines cover bribery and include a higher base level if the defendant is a public official (U.S. Sentencing Guidelines Manual §2C1.1(a)). The sentencing guidelines base the severity of the punishment on the value of the bribe, which is not always limited to the sum of the bribe offered (U.S. Sentencing Guidelines Manual §2C1.1(b)). A higher base level may also be applicable for elected public officials and public officials in high-level decision-making positions (U.S. Sentencing Guidelines Manual §2C1.1(b)).</p> <p>U.S. domestic bribery laws also cover government officials. Article 2, Section 4 of the United States Constitution provides that: “The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, ... Bribery.”</p> <p><u>State law:</u></p> <p>Most jurisdictions have defined bribery by statutes, which generally cover the corrupt influencing of public officials. Typically, the crime of bribery has been defined so that it may involve persons other than public officials. Bribery statutes may make illegal the receipt or solicitation, as well as the giving or offering, of a bribe.</p>
	Bribery of Foreign Officials	The FCPA is a federal statute that, broadly speaking, prohibits corrupt payments by certain covered persons to foreign government officials.

		<p>The FCPA includes two distinct sets of provisions: (i) the anti-bribery provisions and (ii) the accounting provisions.</p> <p>The anti-bribery provisions prohibit corrupt payments to a foreign government official, foreign political party, party official, or political candidate to influence such foreign official in the exercise of his/her official duties to assist in obtaining or retaining business (15 U.S.C. §§78dd-1, 78dd-2, 78dd-3).</p> <p>The accounting provisions consist of two primary components. Under the “books and records” provision, an issuer of securities in the U.S. must make and keep books and records that accurately and fairly reflect its transactions and the disposition of its assets (15 U.S.C. §78m(b)(2)(A)). Under the “internal controls” provision, an issuer of securities in the U.S. must have a sufficient system of internal accounting controls (15 U.S.C. §78m(b)(2)(B)).</p> <p>The FCPA includes both criminal and civil penalties.</p> <p>For each criminal violation of the FCPA’s anti-bribery provision, individuals are subject to a fine of up to USD 250,000 and imprisonment for up to 5 years, and companies are subject to a fine of up to USD 2 million (15 U.S.C. §§78dd-2(g), 78dd-3(e), 78ff(c); 18 U.S.C. §3571(b)(3), (e)). For each criminal violation of the accounting provisions, individuals are subject to a fine of up to USD 5 million and imprisonment for up to 20 years, and companies are subject to a fine of up to USD 25 million (15 U.S.C. §78ff(a)). In addition, under the Alternative Fines Act (18 U.S.C. §3571(d)), fines for individuals or companies can be increased to twice the benefit the defendant gained by making the corrupt payment.</p> <p>Individuals and corporations are also subject to civil penalties of up to USD 16,000 per violation of the anti-bribery provisions of the FCPA (15 U.S.C. §§78dd-2(g), 78dd-3(e), 78ff(c); 17 C.F.R. §201.1004). For violations of the accounting provisions, individuals and companies are subject to a civil penalty not to exceed the greater of the (i) specific gain to the individual or company as a result of the violations or (ii) a specified dollar limitation. The specific limitation depends on the egregiousness of the violation, which ranges from USD 7,500 to 150,000 for an individual and USD 75,000 and 725,000 for a company (15 U.S.C. §78u(d)(3); 17 C.F.R. §201.1004).</p> <p>In practice, the U.S. government has discretion in setting the fine amount, and the fine amount is subject to negotiation. In addition to criminal and civil penalties, individuals and companies are also subject to collateral consequences such as suspension or debarment.</p> <p>In addition to the FCPA, the U.S. Department of Justice (“DOJ”) has charged both individuals and corporations in FCPA cases with violation of the Travel Act (18 U.S.C. §1952), which prohibits traveling in interstate or foreign commerce or using the mail or any facility in interstate or foreign commerce, with the intent to distribute the proceeds of any unlawful activity, including violations of the FCPA. Similarly, mail and wire fraud statutes may also be deployed together with the FCPA.</p> <p>Notably, foreign officials cannot be prosecuted for FCPA violations. In such cases and other cases where the U.S. jurisdictional presence is limited, U.S. prosecutors can bring charges based on violations of anti-money laundering statutes (18 U.S.C. §§1956, 1957). In comparison to FCPA charges, anti-money laundering charges carry more significant penalties, thereby increasing prosecutors’ leverage against individuals and corporations in settlement negotiations.</p>
	<p>Commercial Bribery</p>	<p>Commercial bribery statutes generally prohibit offering or accepting bribes or things of value in exchange for receiving or giving an improper business benefit. The majority of U.S. states have laws prohibiting commercial bribery. For example, the California Penal Code prohibits employees from soliciting, accepting, or agreeing to accept anything of value from a person other than his/her employer, corruptly and without the knowledge or consent of the employer, in return for using his/her position for the benefit of that other person, as well as the same conduct on the part of the offeror (Cal. Penal Code §641.3(a)). Violations of this statute are punishable by imprisonment for up to three years depending on the amount of the bribe (Cal. Penal Code §641.3(c)). Other state commercial bribery statutes include: Del. Code Ann. tit. 11, §881; Fla. Stat. §838.16; 720 Ill. Comp. Stat. 5/29A-1; Mass. Gen. Laws ch. 271, §39; N.J. Stat. Ann. §2C:21-10; N.Y. Penal Law §180.00-08; Tex. Penal Code Ann. §32.43; and Va. Code Ann. §18.2-444.</p>

		<p>At the federal level, the Travel Act prohibits commercial bribery occurring across state lines. Under the Travel Act, it is a crime to travel in interstate or foreign commerce or to use “the mail or any facility in interstate or foreign commerce, with intent to ... promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on, of any unlawful activity” (18 U.S.C. §1952(a)(3)). “[U]nlawful activity” is defined broadly to include “extortion [and] bribery ... in violation of the laws of the State in which committed or of the United States” (18 U.S.C. §1952(b)(i)). This definition provides the hook for federal criminal liabilities when individuals violate state commercial bribery laws.</p> <p>Notably, the anti-bribery provisions of the FCPA prohibit only bribery of foreign government officials and do not prohibit commercial bribery. However, the FCPA’s accounting provisions may serve as a vehicle for charging companies for acts of commercial bribery if the acts result in inaccurate books and records or weakened internal controls. An issuer is strictly liable for violations in connection with all transactions under the accounting provisions of the FCPA, not just the transactions violating the anti-bribery provisions of the FCPA.</p>
<p>Definitions</p>	<p>Government Employee</p>	<p>The general federal bribery statute covers public officials and persons who have been selected to be public officials. “Public official” includes members of the U.S. Congress, delegates, any officers, employees, or anyone acting for and on behalf of the U.S. or any department, agency, or branch of the U.S. government (18 U.S.C. §201(a)(1)). A “person who has been selected to be a public official” means anyone who has been nominated or appointed to be a public official, or has been informed that he/she will be nominated or appointed (18 U.S.C. §201(a)(2)). In <i>Dixson v. U.S.</i>, the U.S. Supreme Court held that the open-ended definition of “public official” in 18 U.S.C. §201(a) applies “to all persons performing activities for or on behalf of the United States, whatever the form of delegation of authority” (465 U.S. 482, 496 (1984) (quotation omitted)). Furthermore, “[p]ersons who hold [positions of public trust with official federal responsibilities] are public officials within the meaning of section 201 and liable for prosecution under the federal bribery statute” (<i>Id.</i>).</p> <p>The FCPA covers foreign officials, foreign political parties or officials thereof, and candidates for foreign political office. “Foreign official” means “any officer or employee of a foreign government or any department, agency, or instrumentality thereof, or of a public international organization, or any person acting in an official capacity for or on behalf” of any of the foregoing (15 U.S.C. §§78dd-1(f)(1)(A), 78dd-2(h)(2)(A), 78dd-3(f)(2)(A)). Although the statute itself does not define an “instrumentality,” U.S. courts have broadly defined this term to include any “entity controlled by the government of a foreign country that performs a function the controlling government treats as its own” (<i>U.S. v. Esquenazi</i>, 752 F.3d 912, 925 (11th Cir. 2014)). Similarly, the DOJ and the U.S. Securities and Exchange Commission (“SEC”) have stated that “[t]he term ‘instrumentality’ is broad and can include state-owned or state-controlled entities” (U.S. Dep’t of Justice & U.S. Sec. & Exch. Comm’n, A Resource Guide to the U.S. Foreign Corrupt Practices Act 20 (2012)). The determination of “[w]hether a particular entity constitutes an ‘instrumentality’ under the FCPA requires a fact-specific analysis of an entity’s ownership, control, status, and function” (<i>Id.</i>).</p> <p>For purposes of state anti-bribery laws—as well as federal laws that cover state officials—the definition of “public official” depends on state law. Federal courts have determined that the mail fraud statute applies to public officials acting in their official capacity (<i>See, e.g., U.S. v. Brumley</i>, 116 F.3d 728, 736 (5th Cir. 1997)).</p>
	<p>Official Act</p>	<p>The federal bribery statute makes it a crime for a public official to “receive or accept anything of value” in exchange for being “influenced in the performance of any <i>official act</i>” (18 U.S.C. §201 (emphasis added)). The statute defines an “official act” as “any decision or action on any question, matter, cause, suit, proceeding or controversy, which may at any time be pending, or which may by law be brought before any public official, in such official’s official capacity, or in such official’s place of trust or profit” (18 U.S.C. §201(a)(3)).</p> <p>In the 2016 case <i>McDonnell v. U.S.</i>, 136 S. Ct. 2355 (2016), the Supreme Court clarified the definition of an “official act” under the federal bribery statute. <i>McDonnell</i> held that “[t]he ‘question, matter, cause, suit, proceeding or controversy’ must involve a formal</p>

		<p>exercise of governmental power that is similar in nature to a lawsuit before a court, a determination before an agency, or a hearing before a committee” (<i>McDonnell</i>, 136 S. Ct. at 2372). In addition, it must be “something specific and focused that is ‘pending’ or ‘may by law be brought’ before a public official” (<i>Id.</i>). Furthermore, to qualify as an “official act,” the public official must make a decision to take an action on that question or matter, or agree to do so (<i>Id.</i>). The Court held that “[s]etting up a meeting, talking to another official, or organizing an event (or agreeing to do so)—without more—does not fit that definition of an ‘official act’” (<i>Id.</i>).</p>
	<p>Gratification (Gifts/ Entertainments/ etc.)</p>	<p>Federal law distinguishes between bribes and gratuities. Bribery requires that the payor intend to influence an official act corruptly (i.e., that there be a quid pro quo), while an illegal gratuity requires only that the payment be for or because of an official act.</p> <p>The federal criminal gratuity statute prohibits directly or indirectly giving, offering, or promising anything of value to any public official, former public official, or person selected to be a public official for or because of any official act performed by such person (18 U.S.C. §201(c)(1)(A)). The statute also prohibits any designated person from seeking or accepting, directly or indirectly, any such gratuity (18 U.S.C. §201(c)(1)(B)).</p> <p>In order to violate the FCPA’s anti-bribery provisions, a payment, offer, promise to pay, or gift must be made with a corrupt intent. As a result, gifts or entertainment that are not provided with the expectation of a quid pro quo arguably would not violate the FCPA, although the amount/type of the gift or entertainment and the intent of the person providing the gift or entertainment are important to this analysis.</p>
<p>Current Status</p>	<p>Enforcement Body</p>	<p>The DOJ enforces domestic federal anti-bribery laws against federal and state officials. In addition, the DOJ can enforce state anti-bribery laws through the Travel Act and the mail and wire fraud statutes.</p> <p>The DOJ and the SEC both enforce the FCPA. The DOJ is responsible for criminal FCPA enforcement over “issuers” (i.e., public companies) and their officers, directors, employees, agents, or stockholders acting on the issuer’s behalf (15 U.S.C. §78dd-1). The DOJ also has both criminal and civil enforcement responsibility for the FCPA’s anti-bribery provisions over “domestic concerns” and certain foreign persons and businesses acting in furtherance of an FCPA violation in the United States (15 U.S.C. §78dd-2, 78dd-3). Within the DOJ, the Fraud Section of the Criminal Division—which houses the DOJ’s FCPA Unit—is primarily responsible for these matters.</p> <p>The SEC is responsible for civil enforcement of the FCPA’s anti-bribery and accounting provisions (15 U.S.C. §78u). The SEC has jurisdiction over “issuers” and their officers, directors, employees, agents, or stockholders acting on the issuer’s behalf. In this context, issuers are companies that have securities registered under Section 12 of the Securities Exchange Act of 1934 (“Exchange Act”) or are required to file reports under Section 15(d) of the Exchange Act. This can include foreign companies with American Depositary Receipts (“ADRs”) listed on a U.S. exchange, but does not include issuers of Level I ADRs. The SEC’s Division of Enforcement—specifically its FCPA Unit—is responsible for investigating and prosecuting FCPA violations.</p> <p>When the SEC and the DOJ both have jurisdiction over an issuer, both agencies may bring FCPA enforcement actions against a defendant.</p>
	<p>Issues in Enforcement</p>	<ul style="list-style-type: none"> • In June 2017, the United States Supreme Court significantly limited the scope of the SEC’s ability to collect disgorgement, the SEC’s primary enforcement remedy. In <i>Kokesh v. Securities & Exchange Commission</i>, the Court unanimously held that disgorgement, like other financial sanctions employed by the SEC, is a “penalty,” and is therefore subject to the five-year statute of limitations set forth in 28 U.S.C. §2462 (137 S. Ct 1635, 1639 (2017)). The Court noted that disgorgement “bears all the hallmarks of a penalty: It is imposed as a consequence of violating a public law and it is intended to deter, not to compensate” (<i>Id.</i> at 1644). The Court rejected the SEC’s position that disgorgement was “remedial” rather than punitive, citing prior cases where the SEC imposed a disgorgement amount that exceeded the defendant’s ill-gotten gains (<i>Id.</i> at 1644–45).

		<ul style="list-style-type: none"> • The Second Circuit’s decision in <i>United States v. Hoskins</i> has the potential to narrow the jurisdictional scope of the FCPA (902 F.3d 69 (2d Cir. 2018)). The case, which was decided in August 2018, concerned a retired British executive of a French multinational company charged with conspiring with persons in the United States to violate the FCPA. The defendant “never set foot in the United States or worked for an American company during the alleged scheme,” but he was charged as a member of a conspiracy through an agency theory (<i>Id.</i> at 76). Relying on the text of the statute and its legislative history, the court determined that “the FCPA does not impose liability on a foreign national who is not an agent, employee, officer, director, or shareholder of an American issuer or domestic concern—<i>unless</i> that person commits a crime within the territory of the United States” (<i>Id.</i> at 96). Ultimately, the Second Circuit held that the DOJ cannot use the conspiracy and aiding and abetting statutes to expand FCPA liability to foreign nationals who could not be held liable for a primary violation of the FCPA. Given this holding, the government may need to increasingly utilize the doctrine of agency as a basis to investigate and prosecute foreign companies and individuals under the FCPA.
	<p style="text-align: center;">Recent Movement</p>	<ul style="list-style-type: none"> • FCPA Corporate Enforcement Policy: The DOJ’s “FCPA Corporate Enforcement Policy” was updated in March 2019 to include formalized criteria for evaluating corporate cooperation and self-disclosure in FCPA cases. This revised policy, which was originally announced by former Deputy Attorney General Rod Rosenstein on November 29, 2017, “is aimed at providing additional benefits to companies based on their corporate behavior once they learn of misconduct” (CMR 9-47.120). In the time since the initial policy was adopted, the number of annual corporate declinations has greatly increased. In 2018, 21 companies publicly reported a DOJ and/or SEC declination, up from 12 companies in 2016. The DOJ’s revised policy seeks to encourage companies to voluntarily self-disclose misconduct by providing more transparency as to the credit a company can receive for self-reporting and cooperating with the DOJ. The revised policy creates a “presumption” that a corporation will receive a declination when it voluntarily self-discloses the misconduct, fully cooperates, and timely and appropriately remediates. The revised policy lays out specific criteria for declination. Where these criteria are met but “aggravating circumstances” are present, the DOJ will accord or recommend a 50% reduction off of the low end of the U.S. Sentencing Guidelines fine range (except in cases of a criminal recidivist). Earlier drafts of the FCPA Corporate Enforcement Policy provided that corporations using ephemeral messaging apps could not receive full credit for timely and appropriate remediation. The revised policy codified in the United States Attorneys’ Manual loosened the prohibition on ephemeral communications, instead requiring the “[a]ppropriate retention of business records” and the “implement[ation] [of] appropriate guidance and controls on the use of personal communications and ephemeral messaging platforms.” The revised policy also: (i) allows full cooperation credit for companies who disclose relevant facts about individuals “<i>substantially</i> involved in or responsible for” the violations (as opposed to requiring all relevant facts on individuals “involved” in FCPA violations); (ii) provides for clear cooperation credit in the mergers and acquisitions context; and (iii) clarifies that the DOJ “will not take any steps to affirmatively direct a company’s internal investigation efforts.” • Evaluation of Corporate Compliance Programs: The DOJ released a new version of its guidance document, “Evaluation of Corporate Compliance Programs,” on April 30, 2019. The updated 2019 guidance offers new insight into the factors the DOJ considers important when evaluating the effectiveness of a company’s compliance programs. Specifically, the DOJ will focus on three questions: (i) is the compliance program “well designed”; (ii) is the program being “implemented effectively”; and (iii) does the compliance program “work in practice”? This updated guidance demonstrates the DOJ’s increasing focus on corporate compliance programs. • Significant Corporate FCPA Resolutions: 2018 saw a return to a historically normal number of FCPA enforcement actions and some of the largest resolutions in history. Over the course of the year, 16 companies paid USD 1 billion in fines, penalties, disgorgement, and interest to resolve FCPA cases (after accounting for various credits or deductions tied to related foreign enforcement actions). Three multijurisdictional

		<p>corporate FCPA settlements made up the vast majority of these fines—Petrobras (USD 1.786 billion), Société Générale (USD 586 million), and Panasonic (\$281 million). By comparison, there were only five corporate FCPA cases resolved by the Trump Administration in the last 49 weeks of 2017 for a total of \$868.3 million.</p> <ul style="list-style-type: none"> • Individual Enforcement: FCPA enforcement against individuals continued to increase in 2018. The DOJ filed 13 indictments and resolved five cases against individuals for a total of 18 individual actions (up from 13 indictments and individual resolutions in the last 49 weeks of 2017). This trend is consistent with recent DOJ and SEC initiatives to focus on individual accountability. In a speech in November 2018, former Deputy Attorney General Rod Rosenstein stated there would be a continued focus on prosecuting individuals. The Co-Director of the SEC’s Enforcement Division has also affirmed the SEC’s commitment to holding individuals accountable, stating that the SEC “considers individual liability in every case it investigates.” • Coordination with Foreign Authorities: The anti-corruption resolutions reached in 2018 with Petrobras, Société Générale, and Panasonic acknowledged cooperation with foreign authorities in 11 different jurisdictions: Brazil, France, Switzerland, the United Kingdom, Canada, the United Arab Emirates, Japan, Singapore, Malaysia, Australia, and Pakistan. The resolution of these major global anti-corruption cases showcases the continuing development of anti-corruption enforcement in jurisdictions outside of the United States and the importance of coordinating investigations and resolutions with multiple sovereigns.
<p>Participation in International Anti-Corruption Conventions</p>	<p>OAS Convention</p>	<p>Signed June 2, 1996 Ratified September 15, 2000</p>
	<p>OECD Convention</p>	<p>Yes</p>
	<p>UNCAC</p>	<p>Signed December 9, 2003 Ratified October 30, 2006</p>
<p>Last Updated</p>		<p>June 14, 2019</p>

Region		South America
Country		Argentina
2018 CPI	Rank	85/180
	Score	40
The Law on Bribery	Bribery of Domestic Officials	<p>The offering, request for or the acceptance of gifts, money, or other things of economic value to or by public officials is prohibited under the Argentine Penal Code and under civil statutes, including those governing public employment and ethics of public office.</p> <p><u>Offering a bribe:</u></p> <ul style="list-style-type: none"> • It is a crime to, directly or indirectly, give or offer gifts, money, or any other thing of economic value to a public official to influence or in exchange for the official's performance, delay or failure to perform an act inherent to his/her office; violations are subject to one to six years' imprisonment (Section 258, Penal Code). • It is a crime to offer or confer a benefit on a public official solely in recognition of the public official's holding of office, even without intent to influence; violations are subject to one month to one year of imprisonment (Section 259, Penal Code). <p><u>Receiving a bribe:</u></p> <ul style="list-style-type: none"> • It is a crime for a public official to request, receive, or accept (whether directly or indirectly) a gift, a promise, money, or any other thing of economic value in exchange for the performance, delay or failure to perform an act within the public official's duty or office; violations are subject to one to six years' imprisonment and lifetime disqualification from office (Sections 256 and 256 bis, Penal Code). • It is a crime for a public official to receive or otherwise accept benefits for the sole reason of his/her holding of office, without regard to intent to influence; violations are subject to one month to two years of imprisonment and one to six years' disqualification from office (Section 259, Penal Code). • Any person who intermediates an unlawful payment is subject to one to six years' imprisonment and disqualification from holding public office for life (section 256 bis, Penal Code). • Government officials are prohibited from receiving gifts, presents, benefits, or privileges of any kind by reason or on occasion of the performance of their duties (Law No. 25,164 on Public Employment and its Regulations). • Under the Public Ethics Law (Law No. 25,188), public officials are barred from receiving any undue personal benefit related to the performance, delay, or failure to perform any act inherent to their office. Public officials are also prohibited from receiving gifts, gratuities, or donations (regardless of whether they are goods or services) by reason or on occasion of the performance of their duties. Should a public official receive a gift as a courtesy or as a gesture of diplomatic protocol, the gifts must be recorded in a special registry (see description of Gratification below) and deemed state property. The Public Ethics Law further requires public officials to disclose all assets owned by the official, by the official's spouse (if marital property) and by any of their minor children (Law No. 25,188 on Ethics in the Exercise of Public Office and its Regulations). • Under the Code of Ethics for Public Officials, public officials may not request, receive, or accept any money, gifts, benefits, favors, or other privileges: (i) to perform, delay, or fail to perform a duty; (ii) to exert influence over another public official to perform, delay, or fail to perform a duty; and (iii) if the giving of money, gifts, benefits, favors, or privileges would not have been made but for the public official's holding office. The Code of Ethics includes several legal criteria to determine whether a benefit or the conduct of a public official is prohibited. <p><u>Judicial bribery:</u> Applicable penalties are enhanced if the person involved is a judge or a member of the Office of the Attorney General (<i>Ministerio Público</i>), in which case the person making the bribe may be subject to two to six years' imprisonment and, if a public official, disqualified from office (Section 258, Penal Code).</p>

		<p>If the recipient is a judge or a member of the Office of the Attorney General (<i>Ministerio Público</i>), he/she is subject to four to 12 years’ imprisonment and lifetime disqualification (Section 257, Penal Code).</p> <p><u>Corporate liability:</u> Until now, criminal liability could almost never be imposed on legal entities. With the enactment of the Criminal Corporate Liability Act (Law No. 27,401, “Corporate Liability Act”), effective March 1, 2018, legal persons may be criminally prosecuted for corruption charges under Sections 258, 265, and 268 of the Penal Code. If found guilty, the legal entity may be punished with fines ranging from two to five times the unlawfully obtained benefit, the loss of its business license for up to 10 years, a ban on all government contracting for up to 10 years, mandatory dissolution (upon a finding that the primary purpose of the legal entity was to commit corrupt acts), or a combination of the foregoing. In addition, the Corporate Liability Act enhances the criminal sentencing for a company found guilty of filing false or incomplete financial statements used to cover up bribery acts.</p> <p>The Corporate Liability Act creates an incentive for management to report corrupt acts, as it exculpates a company that self-reports a corrupt act, demonstrates the existence of a meaningful compliance program, and disgorges any ill-gotten benefits.</p> <p>The Corporate Liability Act further incorporates a new enforcement tool in Argentina, allowing the government prosecutor (<i>Ministerio Público Fiscal</i>) to enter into “Cooperation Agreements” with the defendant company at any time before trial proceedings begin. These agreements stipulate the defendant’s cooperation with the investigation and with the recovery of any assets or proceeds from the crime. By cooperating, the defendant company qualifies for a deferred prosecution and reduced financial penalties.</p> <p>The Corporate Liability Act also encourages companies to develop compliance programs. An “adequate” compliance program is mandatory for companies involved in government contracts and optional for entities that are not involved in government contracts. Companies demonstrating the existence and implementation of such a program qualify for reduced financial penalties for leniency in the event they are prosecuted under the anti-bribery statutes.</p> <p>The Corporate Liability Act establishes that, at a minimum, a compliance program should include: (i) a written code of ethics or code of conduct; (ii) specific rules and procedures for preventing unlawful acts in any interaction with the government or public officials; and (iii) regular compliance training sessions. Other features, including the appointment of an internal compliance officer, internal reporting channels, internal investigation procedures, whistleblower protection policies, background checks, and due diligence on third parties, are optional.</p> <p>The Corporate Liability Act does not alter existing law allowing for seizure of corporate assets obtained from a bribe. Thus, if a convicted person served as an officer or director of a legal entity that benefited from the crime, any corporate assets used to commit the crime and any benefit obtained from the crime may be seized (Section 23, Penal Code).</p>
	<p>Bribery of Foreign Officials</p>	<p>It is a crime to offer, promise, or confer any favor, benefit, or payment to a public official of a foreign state or to an official belonging to a public international organization in exchange for the official’s performance or failure to perform an act inherent to the official’s office or in exchange for the influence of the official’s office with respect to any economic, commercial or financial transaction (Section 258 <i>bis</i>, Penal Code).</p> <p>Violators can be sentenced to one to six years’ imprisonment, or lifetime disqualification from office if the violator is a public official.</p> <p>The Corporate Liability Act defines “foreign public official” as any public official of another state or territory recognized by Argentina, any person that has been appointed or elected to public office of any level or subdivision, or an official of any entity, agency or government-owned company in which such state or territory has direct or indirect influence.</p>
	<p>Commercial Bribery</p>	<p>Argentina does not have national laws prohibiting commercial bribery. Nonetheless, certain provisions regulate private conduct in specific areas. For instance, employees and officers of financial institutions, securities brokers and other financial intermediaries operating in the securities market are prohibited from receiving money or other financial</p>

		<p>benefit in exchange for performing credit, financial or market transactions. Violators may be punished by imprisonment from one to six years and disqualification from their licensed activity for up to six years (Section 312, Penal Code).</p> <p>In addition, an officer of a company who receives a payment in exchange for conferring a benefit (whether personal to the officer or for a third party) that causes harm to the company may be guilty of “fraudulent administration.” If convicted, the crime is punishable by imprisonment from one month to six years (Section 173 paragraph 7, Penal Code).</p>
<p>Definitions</p>	<p>Government Employee</p>	<p>There is no unified definition of “public official” or “government employee.” Courts have generally interpreted “public official” to include employees of state-owned enterprises. According to the Penal Code, a public official or government employee is any individual who temporarily or permanently participates in the exercise of public office, whether democratically elected or designated by a competent authority (Section 77, Penal Code). The Public Ethics Law defines “public office” (<i>función pública</i>) as any temporary or permanent activity, whether or not paid, performed by an individual on behalf of, or in the service of, the state or any of its subdivisions or agencies.</p>
	<p>Gratification (Gifts/ Entertainments/etc.)</p>	<ul style="list-style-type: none"> • In general, public officials are prohibited from receiving any type of gift, donation (goods or services), benefit, or gratuity as a result or on occasion of their office. Argentine law does not provide definitions for these terms or interpretative guidelines except for a few exceptions permitted under the Public Ethics Law and the Code of Ethics for Public Officials: (i) official protocol recognitions from foreign governments, international organizations, or nonprofit organizations, given in accordance with the relevant laws and official custom; (ii) travel and lodging expenses related to participation in academic or cultural activities, provided that they are not incompatible with the office or special laws; (iii) gifts or benefits that, given their small pecuniary value, could not reasonably be deemed a means to influence the public official’s will; and (iv) small gifts received by public officials from other public officials for reasons of friendship or due to celebrations for which gifts are customarily given. • Decree No. 1179/2016 (“Decree”) issued November 18, 2016, regulates gifts and trips involving public officials. According to the Decree, public officials can receive gifts only as a courtesy or as a gesture of diplomatic protocol. In both cases, the gifts must be registered in the “Registry of Gifts to Public Officials” also created by the Decree. Gifts may not be accepted from persons (individuals or legal entities) who: (i) perform activities regulated or audited by the agency in which the public official works; (ii) hold concessions, authorizations, privileges, or exemptions granted by the agency or body in which the public official works; (iii) are contractors or suppliers of works, goods, or services for the agency or body in which the public official works; (iv) endeavor to procure a decision or action from the agency where the public official works; or (v) has interests that may be materially affected by a decision, action, delay, or omission from the agency where the public official works. Gifts given to public officials having a value greater than AR\$6,400 or, in the case of gestures of diplomatic protocol, representing the relationship between governments, must be turned over to the state. The Decree also states that public officials may accept the payment of travel or hotel expenses by third parties if: (i) they are allocated to the organization of conferences, courses, or academic or cultural activities, or for the participation in them; (ii) they do not proceed from governments, entities, individuals, or agencies otherwise prohibited from giving gifts to public officials; and (iii) their acceptance is neither incompatible with the public official’s duties nor forbidden by specific rules. As well as with gifts, public officials who receive these benefits must register them at the “Registry of Trips Financed by Third Parties” also created by the Decree.

Current Status	Enforcement Body	<p>The Public Ethics Law called for the creation of a Federal Public Ethics Commission (“FPEC”) as an independent authority within the Federal Congress, which was to be composed of members from all branches of the government. Its mission was to enforce the application of the Public Ethics Law (including the periodic submission of affidavits by public officials).</p> <p>However, the FPEC was never created. Instead, its functions have been partially and temporarily performed by the Anti-Corruption Office within the Ministry of Justice (“OA”) and the National Office for Administrative Investigations of the Prosecutor-General’s Office (“FIA”), the two principal agencies involved in the prevention and investigation of corruption within the Executive Branch. The OA is focused on members of the Executive Branch, both centralized and de-centralized public administrative bodies, state-owned or controlled enterprises, and organizations using public resources. The OA cannot investigate members of Congress, the judiciary, or any provincial or municipal government official. Likewise, the FIA is a specialized body created to investigate corruption within the Federal Public Administration. While the OA has the authority to independently initiate investigations, it is reportedly vulnerable to political influence.</p> <p>Some amendments to the Public Ethics Law made in 2013 have, among other things, revoked the creation of the FPEC but have not provided for the creation of another independent authority to undertake the role originally assigned to the FPEC. These amendments have broadened the list of individuals required to file disclosure affidavits. However, they have limited the content of these affidavits, including content that may be disclosed to the public.</p> <p>The OA has been empowered to upload the affidavits’ public content to its webpage. Nonetheless, the OA’s role in enforcing the Public Ethics Law remains unclear. Several bills have been proposed to address these loopholes and to clarify appropriate controls on anticorruption, nepotism, and conflict of interest involving public officials.</p> <p>Other public bodies charged with controlling administrative acts, though not focused on corrupt practices, may report corruption. On the federal level, these auditing offices are the <i>Sindicatura General de la Nación</i> (“SIGEN”) and the <i>Auditoría General de la Nación</i> (“AGN”). SIGEN is challenged by a lack of independence, as the head of the agency is appointed by the president and its reports are not published. The largest opposition party in Congress appoints the AGN president. Thus far, this entity has not played a significant role in fighting corruption.</p> <p>Similarly, the <i>Ombudsman</i> can report corruption cases discovered during its control on public agencies.</p>
	Issues in Enforcement	<ul style="list-style-type: none"> • As part of its announced intention to have Argentina join the OECD, the current administration has undertaken efforts to fight corruption by increasing normative control (new laws and new regulations designed to increase transparency and visibility in government dealings). Nonetheless, prevention and enforcement continue to be plagued by practical problems rooted in a political system that continues to tolerate corruption, as well as by charges of politicization. • Failure to create an independent authority for centralized control of corruption at the federal level and unclear jurisdiction of the OA. The OA lacks independence from the Executive Branch and is therefore susceptible to undue influence. • Lack of uniform and unified rules to give controlling definitions and interpretation guidelines, giving way to excessive judicial discretion in anti-corruption enforcement. • Inefficient judicial system and lack of enforcement. Judges and law enforcement officials are vulnerable to political pressure and often lack independence.
	Recent Movement	<ul style="list-style-type: none"> • On September 14, 2016, Congress passed the Access to Public Information Law (Law No. 27,275), a fundamental tool to fight corruption and to foster citizen audit of public affairs. Under this law, any person or legal entity, public or private, has the right to request and receive public information. This right comprises the possibility of freely searching, accessing, requesting, receiving, copying, analyzing, processing, reusing, and redistributing information held by the Federal Administration (both centralized and decentralized agencies), the Legislative Branch, the Judicial Branch, the Public Ministry for the Prosecution and Defense, as well as other significant public agencies.

Violation of the law by any subject official is deemed malfeasance in the performance of public service.

- On October 19, 2016, Congress approved the Repentance Law (Law No. 27,304). Under the Repentance Law, those suspected of crimes related to bribery would benefit from reduced prison sentences in exchange for credible evidence or information of another crime involving bribery, influence peddling, contraband, misuse of public goods, unjust enrichment, and other unlawful acts. Suspects who cooperate with investigations of corruption will be prosecuted on the basis of an attempted crime and not the commission of the crime itself.

The information given by the suspect must be verifiable and: (i) contribute to preventing the commission or continuance of a crime; (ii) clarify facts under investigation; (iii) reveal the identity or whereabouts of the perpetrator(s); (iv) provide relevant information to further the investigation; (v) help find the whereabouts of the instruments or results of the crime; or (vi) indicate the funding sources of the criminal organizations involved in the crime.

Suspects invoking the Repentance Law are not exempted from prison sentences but can qualify for a reduced sentence. A defendant cannot be found guilty solely on the basis of information provided by a suspect acting under the Repentance Law.

Suspects providing false or misleading information to authorities as a means of qualifying for the benefits of the Repentance Law are subject to imprisonment from four to 10 years.

- The OA has dramatically increased its role and standing as an interested party (*querellante*) in corruption cases.
- In March 2017, the government issued two decrees (Decrees 201 and 202/2017) involving cases in which the individual or legal entity dealing with the government has ties (as family or friends, commercial ties, or through involvement in current litigation) with the president, vice president, chief of staff, ministers, or heads of any government agency or with an official having decision-making power. In these cases, the government must be represented by the *Procurador General del Tesoro*, who is required to inform the OA and Congress before giving an opinion on the matter, and the official involved must abstain from acting. In addition, these cases require additional public disclosure to guarantee transparency.
- In March 2017, Argentina adhered to the OECD Recommendation on Public Integrity and agreed to an OECD audit to be completed during 2018 and to be used to help Argentina develop a National Anti-Corruption Plan.
- In March 2018, the government issued Decree 277/2018 to regulate certain aspects of the Corporate Liability Act. These regulations empower the OA to set rules and guidelines for a *per se* appropriate compliance or “integrity” program. The OA has [issued a draft of the rules and guidelines and published them online](#).
- In November 2018, a Criminal Records Registry was created to house all records of disciplinary actions against legal entities (Disposition 11/2018) prosecuted under the Corporate Liability Act (Law No. 27,401) and the Law on Economic Crimes (Law No. 26,733). The main objective of Disposition 11/2018 is to create a centralized, digital registry of criminal records for legal entities.
- Over the past three years, the government has established anti-nepotism regulations for public officials (Decree No. 93/18), reorganized the public contracting system (requiring contractors to certify implementation of the Compliance Program required under the Corporate Liability Act (Decree No. 1169/18), and created a free, open database to catalogue information on government officials and public contractors (Decree No 117/16).
- On March 6, 2019, the government presented a draft bill (“Bill”) to implement a new public ethics regime. The Bill adopts a broad definition of “public official,” which includes “any activity in service of state interests or public authority,” thus covering activities performed by state entities or government-run entities operating in the private sector. Among the proposed changes, the Bill would endow the anti-nepotism regime with full legal weight of an act of congress, limit the appointment and supervision of

		<p>public officials, as well as add a disclosure requirement regarding a public official's assets and any past or present business's ties as a means to detect personal enrichment and conflicts of interest.</p> <ul style="list-style-type: none"> • In April 2019, the government issued Decree No. 258/2019 and adopted the National Anti-Corruption Plan to coordinate and strategically plan policies to fight corruption. Through the Plan, the Executive Branch seeks to prioritize objectives and guidelines consistent with international conventions against corruption, organized crime, and money laundering. The 260 initiatives included in the Plan will be implemented across government agencies and departments. Priorities include strengthening of institutions, citizen participation, integrity in the private sector, and ethics education in schools. Supporting these priorities are strategic guidelines such as transparency and open government, integrity and prevention, and investigation and sanction. Each initiative includes deadlines to monitor progress and compliance, as well as the agency in which it is to be implemented. In addition to the initiatives, the Plan includes mechanisms to improve the transparency and efficiency of public contracts, especially those dealing with public works. It also includes platforms to ensure citizens have access to public information to better exercise their rights. • Decree No. 258/2019 instructs the OA to create an "ad-honorem" Advisory Council to oversee the implementation of the anti-corruption plan. The Advisory Council is to be made up of individuals from the private sector and other experts. The Decree also provides for the creation of a public monitoring mechanism that includes a summary of the measures already taken and the goals of the Plan.
<p>Participation in International Anti-Corruption Conventions</p>	<p>OAS Convention</p>	<p>Signed March 29, 1996 Ratified August 4, 1997</p>
	<p>OECD Convention</p>	<p>Yes. Congress approved the Convention upon enactment of Law No. 25,319 on September 7, 2000. The instrument of ratification was deposited with the OECD Secretary-General on February 8, 2001. The Convention became effective in Argentina on April 9, 2001.</p>
	<p>UNCAC</p>	<p>Signed December 10, 2003 Ratified August 28, 2006</p>
<p>Last Updated</p>		<p>June 13, 2019</p>

Region		South America
Country		Brazil
2018 CPI	Rank	105/180
	Score	35
The Law on Bribery	Bribery of Domestic Officials	<p>According to the Brazilian Criminal Code, Law No. 2,848 of December 7, 1940 (“Brazilian Criminal Code”), bribery may be framed in four different criminal offenses: active corruption, passive corruption, extortion, and influence peddling.</p> <p><u>Active corruption:</u> An individual commits a criminal offense of active corruption if he/she is found to offer or give undue advantage to a public official in order to induce him/her to practice, omit or delay an act pertaining to his/her functions: two to 12 years’ imprisonment and fines (Section 333 of the Brazilian Criminal Code).</p> <p><u>Passive corruption:</u> A public official commits a criminal offense of passive corruption if he/she is found to solicit or receive, for himself/herself or for a third party, directly or indirectly, even if not in the exercise of his/her functions or prior to taking office, but as a result of such a position, an undue advantage or accepts a promise for such advantage: two to 12 years’ imprisonment and fines (Section 317 of the Brazilian Criminal Code).</p> <p><u>Extortion:</u> A public official commits a criminal offense of extortion if he/she is found to demand, for himself/herself or for a third party, directly or indirectly, even if not in the exercise of his/her functions or prior to taking office, an undue advantage: two to eight years’ imprisonment and fines (Section 316 of the Brazilian Criminal Code).</p> <p><u>Influence peddling:</u> An individual commits a criminal offense of influence peddling if he/she is found to solicit, demand, charge, or obtain, for himself/herself or for a third party, an advantage or promise of advantage under the pretext of influencing an act of a public official in the exercise of his/her functions: two to five years’ imprisonment and fines (Section 332 of the Brazilian Criminal Code).</p> <p><u>Corporate liability:</u> Under Law No. 12,846 of August 1, 2013, also known as the “Clean Company Act,” domestic and international companies with a presence in Brazil who engage in bribery of public officials within Brazil may all be subject to civil and administrative liability. Third parties aiding, abetting, or concealing bribery acts perpetrated by companies are also individually liable (Section 3 of the Clean Company Act).</p> <p>Directors and officers are liable only to the extent of their liability. Joint and several liability for fines and the restitution for damages extend to the parent company, subsidiaries, affiliates, and joint venture partners. Successor liability is applicable in mergers, limited to restitution and the payment of fines up to the value of the assets transferred in the transaction. These limits may be disregarded if the transaction was executed with fraudulent intent (Section 4 of the Clean Company Act).</p> <p>The Clean Company Act also allows for the piercing of the corporate veil to reach its officers and shareholders with management roles, whenever the legal entity is used to facilitate, conceal, or disguise bribery acts (Section 14 of the Clean Company Act).</p>
	Bribery of Foreign Officials	<p>Brazil signed the OECD Convention on December 17, 1997, and deposited its instrument of ratification on August 24, 2000, pursuant to Legislative Decree No. 125, of June 15, 2000. Brazil enacted the implementing legislation in the form of Law No. 10,467, of June 11, 2002, which amended the Brazilian Criminal Code and Law No. 9,613, of March 3, 1998, and it came into force on June 11, 2002.</p> <p>As a result of Law No. 10,467/2002, the Brazilian Criminal Code now contains Sections 337-B to 337-D which appear as Chapter II-A (crimes committed by individuals against foreign public officials).</p> <p>It is a crime to promise, offer or give, directly or indirectly, an improper advantage to a foreign public official or to a third person, in order for him/her to put into practice, to omit,</p>

		<p>or to delay any official act relating to an international business transaction: one to eight years' imprisonment and fines (Section 337-B of the Brazilian Criminal Code).</p> <p>Passive trafficking of influence in an international business transaction is also a criminal offense: two to five years' imprisonment and fines (Section 337-C of the Brazilian Criminal Code).</p> <p><u>Corporate liability:</u> Under the Clean Company Act, Brazilian companies engaging in foreign bribery may be subject to civil and administrative liability.</p>
	<p>Commercial Bribery</p>	<p>Brazil does not have any laws that specifically prohibit bribery in the private sector. While amendments were proposed to revise the Brazilian Criminal Code to include crimes of active and passive corruption between individuals in the private sector, with a penalty of one to four years of imprisonment and a fine, this reform is still pending Senate approval.</p>
<p>Definitions</p>	<p>Government Employee</p>	<p>Public officials include persons who hold a position, job or public function, even without remuneration or on a temporary basis as well as persons who hold a position, job, or public function in a state-owned company or a company offering services to provide or execute typical functions of the public administration (Section 327 of the Brazilian Criminal Code).</p> <p>While the Clean Company Act does not provide a definition of “government employee,” thus using the definition provided by the Brazilian Criminal Code, it does define “foreign public entities” and “foreign public officials” in a way that includes, respectively, entities directly or indirectly controlled by the public sector of a foreign country (i.e., diplomatic representations and companies controlled by state-owned companies), and individuals with even temporary or unpaid employment at such entities. It further states that public international organizations are considered foreign public entities. Furthermore, the Clean Company Act spells out a control test for determining whether companies with state ownership qualify as public entities whose employees are “foreign public officials” (Section 5, paragraphs 1, 2, and 3 of the Clean Company Act).</p>
	<p>Gratification (Gifts/ Entertainments/ etc.)</p>	<p>Brazilian law provides that corruption may occur by the simple offering of an undue advantage to a public official but it does not define “advantage.” Accordingly, the interpretation of that term is subject to the court’s scrutiny on a case-by-case basis.</p>
<p>Current Status</p>	<p>Enforcement Bodies</p>	<p>On March 18, 2015, Brazil’s Federal Executive issued Decree No. 8,420/2015 (“Decree”) which outlines how the Clean Company Act will be applied. At the federal executive level, the Decree enables the highest federal executive authorities (governmental agencies, state-owned companies, state-controlled companies, and state governmental foundations) to enforce the Clean Company Act. Each Minister of State of the federal government is competent to enforce the Clean Company Act within direct administrative bodies of the federal executive (ministries, secretaries, and subordinated bodies). This means that enforcement can be sought by affected government regulators, such as IBAMA (environment), ANVISA (health), ANP (oil and gas), and others. Interpretation and enforcement of the Clean Company Act is likely to proceed in haphazard and conflicting ways, according to differing procedures and subject to differing policy influences.</p> <p>Within the legislative and judiciary branches, violations will be investigated by their highest authorities. Enforcement will be carried out by independent <i>ad hoc</i> committees of public personnel staffed at both indirect and direct federal administrative levels. The competent enforcing/prosecuting authorities will vary in accordance with where the violations were perpetrated.</p> <p>On August 31, 2016, former President Dilma Rousseff was impeached by the Brazilian Senate. On the same date, Michel Temer, the Vice President, took office as the new President of Brazil. Right after taking over the presidential office, President Temer issued an executive order with the purpose of reorganizing the administrative structure of Brazil’s federal government. This executive order was later permanently converted into Law No. 13,431/2016 on September 29, 2016.</p>

		<p>One of the highlights of Law No. 13,431/2016 was to eliminate the Office of the Comptroller General (“CGU”) and to create the Office of Transparency, Supervision and Control (which absorbed all activities formerly under the auspices of the CGU). The Office of Transparency, Supervision and Control now has authority to concurrently enforce the Clean Company Act at any level (and also to claim authority over any ongoing domestic administrative proceeding) and in connection with all corrupt practices involving foreign governments. Furthermore, the Office of Transparency, Supervision and Control has exclusive jurisdiction to negotiate and enter into leniency agreements in connection with domestic and international corruption cases. Finally, increasing the Brazilian government’s transparency and supervising the Brazilian government’s internal control system are additional responsibilities of the Office of Transparency, Supervision and Control.</p> <p>Law enforcement authorities (state and federal police), and the state and federal prosecutors (<i>Ministério Público Estadual</i> and <i>Federal</i>), may also conduct investigations and file civil and criminal lawsuits. Depending on the violations which took place, state and federal courts will have jurisdiction over cases involving public officials.</p>
	<p>Issues in Enforcement</p>	<p>The Decree, which outlines how the Clean Company Act will be applied, covers, among other things, the following areas: (i) penalties that will be applied to violations of the Clean Company Act; (ii) details on how the authorities will incentivize compliance programs (<i>programas de integridade</i>); (iii) the provision of exclusive jurisdiction to the Office of Transparency, Supervision and Control to negotiate and enter into leniency agreements; and (iv) details on administrative proceedings.</p> <p>Violations of Brazil’s Clean Company Act can result in fines which range from 0.1 to 20% of a company’s gross revenue in the fiscal year prior to the start of the investigation (or from R\$6,000 to R\$60 million, if the gross revenue criterion is not available). Fines will be limited to the lowest amount between (i) 20% of a company’s gross revenue in the fiscal year prior to the start of the investigation and (ii) three times the illegal advantage actually (or intended to be) obtained.</p> <p>To calculate the fines, the following range of percentages of the gross revenue of the company for the fiscal year prior to the start of the investigation will be applied: (i) 1 to 2.5% if the violation took place over a long period of time; (ii) 1 to 2.5% if management of the company was aware of the violations; (iii) 1 to 4% if the violation caused the suspension of public services or involved a contract with a public organ; (iv) 1% if company netted profits and had a positive solvency rate in the fiscal year before the investigation; (v) 5% if the company is a recurring offender and committed a similar violation within five years of the publication date of the last administrative judgment; and (vi) 1 to 5% according to the amount of contracts actually or intended to be entered into with governmental authorities (ranging from 1% for contracts above R\$1.5 million to 5% for contracts above R\$1 billion).</p> <p>Violating companies can benefit from the following reductions in the ultimate fine: (i) 1% if the violation was not completed; (ii) 1.5% if the company remedies the damages caused; (iii) 1 to 1.5% if the company collaborates with the investigation, regardless of the execution of leniency agreements; (iv) 2% if the company is the first to report the violations before the commencement of the proceeding; and (v) 1 to 4% if the company has an effective compliance program in accordance with the factors set forth in the Decree. On February 4, 2019, the recently appointed Minister of Justice Sérgio Moro proposed to Congress a bill of law to reduce corruption and organized crime (Bill of Law No. 1,864/2019, also known as the “Anti-Crime Package”). Among its various provisions, this bill of law proposes to introduce plea bargain agreements to the Brazilian criminal legal system, as well as whistleblower programs. Specifically, the bill establishes rules to protect whistleblowers against retaliation and aims at incentivizing reports by increasing awards up to 5% of the amounts recovered by the public administration. This Anti-Crime Package is currently pending review in Congress.</p> <p>More recently, on April 5, 2019, the CGU determined that leniency agreements between legal entities and Brazilian law enforcement authorities would no longer be kept under seal, in accordance with the Brazilian Law on Access to Public Information (Brazilian Law No. 12, 527/2011). As a result, all such cooperation agreements, including those of national and international repercussion, are now available to the public (e.g., Odebrecht, SBM Offshore, and Andrade Gutierrez).</p>

	<p>Compliance Program Guidelines</p>	<p>Before being replaced by the Office of Transparency, Supervision and Control, the CGU enacted additional rules, clarifications, and procedures in connection with the efficiency assessment of the compliance program standards set forth in the Decree. Since the CGU had authority to fine violating companies at the federal level, all recommendations or resource guides drafted by CGU were merged into the Office of Transparency, Supervision and Control and still apply to the enforcement of the Clean Company Act in connection with violations involving the federal government. The executive branches of states and municipalities have jurisdiction to enact decrees to regulate the application of the Clean Company Act at their governmental level. Nevertheless, the Decree provides useful general guidelines to better understand the expectations in connection with compliance programs.</p> <p>As per Instruction (<i>Portaria</i>) No. 909/2015, in order to have their programs assessed, companies must produce and file with the Office of Transparency, Supervision and Control both a “Profile Report” and a “Compliance Report.” The Profile Report must disclose: (i) domestic and foreign markets in which the company has activities; (ii) the internal organizational structure; (iii) the number of employees and collaborators; (iv) the business relationships and agreements (and their value in connection with the company’s gross revenues) entered into with governmental authorities in the last three years; (v) the use and relevance of expeditors, consultants, attorneys-in-fact, and commercial representatives in connection with business relationships with governmental authorities; and (vi) controlling, controlled, or joint venture equity interests. In Compliance Reports, the company shall demonstrate the successful use of the compliance program as part of the company’s routine, provide historical data, statistics and specific cases, as well as the effectiveness of the program in the prevention, detection, and remediation of violations. Compliance programs unable to demonstrate effective prevention of violations of the Clean Company Act will not mitigate administrative sanctions.</p>
	<p>Recent Movement</p>	<p>In 2013, a committee of Brazil’s Senate approved a bill that would establish commercial corruption as a “heinous crime,” a legal concept that allows for tougher punishments for corrupt practices, including travel and other restrictions that could seriously hamper the ability of executives and companies to carry out operations when facing charges for this category of crime. The bill, which still requires approval by Brazil’s House of Representatives, would then need to be ratified by Brazil’s President before becoming law. If approved, it would apply to government officials who take advantage of their public position to demand favors and to those who embezzle public funds. It would also apply to individuals and institutions who offer bribes to government officials.</p> <p>In 2016, the Federal Prosecution’s Office (<i>Ministério Público Federal</i>) drafted a bill of law (PL 4850/2016) known as the “10 measures against corruption act.” The draft bill is intended to: (i) criminalize slush funds in political campaigns (<i>Caixa 2</i>); (ii) establish mechanisms to audit political parties; and (iii) increase sentencing guidelines for larceny, embezzlement, passive corruption, and active corruption. The draft bill is currently under analysis by Congress. More recently, Congress has submitted several amendments to the bill. For instance, the House of Representatives has added an entire chapter to hold judges and prosecutors accountable for acting based on “political motivation” or “by reckless means.” Representatives have also excluded provisions concerning the forfeiture of ill-gotten gains and the criminalization of illicit enrichment.</p> <p><i>Fundação Getúlio Vargas</i> and Transparency International plan to launch a pilot program called “100 measures against corruption,” which is broader than the proposal made by the <i>Ministério Público Federal</i>. The program proposes holding political parties accountable for illegal conduct, establishing new financing rules for elections and regulating lobbying (currently unregulated in Brazil). The content of this proposal was released in early 2018.</p> <p>Since 2014, the Brazilian authorities have been conducting the investigation of kickback schemes in the state-owned oil company, Petrobras. The investigation, known informally as the “<i>Operação Lava Jato</i>” or “<i>Petrolão</i>,” focuses on bribes allegedly paid by several private companies (mostly in the construction business) to several Brazilian political parties (including the party of the former president, the Workers Party, or “PT”). The most prominent case stemming out of the <i>Lava Jato</i> investigation involved a multijurisdictional settlement in connection with a corruption case implicating Odebrecht, Brazil’s largest construction conglomerate, and Braskem, a Brazilian petrochemical company. As a result of cooperation efforts between Brazilian prosecutors, Swiss authorities, and the U.S.</p>

Department of Justice Criminal Division’s Fraud Section, Odebrecht and Braskem pleaded guilty to schemes of payments of hundreds of millions of dollars in bribes to government officials around the world. As a consequence, they agreed to pay a total penalty of at least USD 3.5 billion. This, as of now, is the largest global penalty to resolve a foreign bribery case in history. The U.S. government took particular interest in the case, since the defendants used the global financial system—the U.S. banking system in particular—to conceal bribe payments.

As a consequence of *Lava Jato*, Brazilian authorities were led to believe other state-run companies were involved in similar corruption schemes. Officers of Eletrobras, a state-owned electric utility company, were accused of price fixing and the payment of millions of dollars in bribes. In late 2015, the City of Providence, Rhode Island, filed a lawsuit seeking damages in a federal court in Manhattan, New York, on behalf of holders of Eletrobras’s American depository receipts. The case is currently ongoing.

Brazil’s Administrative Court of Tax Appeals (“CARF”) has also been subject to a criminal investigation due to an alleged massive corruption scheme in connection with tax evasion. The investigation, “*Operação Zelotes*,” is focused on tax cases CARF members have been ruling on since 2005, which may have involved improper conduct. Law enforcement authorities in Brazil suspected CARF members would decide in favor of taxpayers, reducing or eliminating taxes owed, in consideration for bribes. Certain Brazilian and non-Brazilian companies, including large private financial institutions, consulting firms, and law firms, are currently being investigated by local authorities.

Lava Jato has informally acquired the status of an institution in Brazil and has become an international reference against corruption. Cooperation efforts between Brazilian and international law enforcement authorities have significantly expanded the prosecution of wrongdoing both in Brazil and in other countries. Such cooperation has become particularly strong between Brazil and U.S. law enforcement authorities. In 2018, Keppel Offshore & Marine (Singapore’s largest oil rig construction company) was fined USD 422 million for bribes paid in Brazil. The U.S. Department of Justice found that the company used the U.S. banking system to pay bribes to Brazilian officials in exchange for contracts with Petrobras and Sete Brasil. The company was accused of using a third-party intermediary (who was arrested in 2016 as part of *Lava Jato*) to make payments to Petrobras officials and politicians of the Workers’ Party in Brazil. In addition, early in 2018, Petrobras announced that it has agreed to pay USD 2.95 billion to settle a U.S. class action lawsuit related to corruption. The deal intended to resolve all pending and prospective claims by purchasers of Petrobras securities traded in U.S. markets. The U.S. District Court for the Southern District of New York has already approved the settlement in 2018.

As an ongoing development of this case, in 2019, Petrobras announced one of the most striking resolutions settled to date: the state-run company agreed to enter into a non-prosecution agreement with the U.S. Department of Justice and the U.S. Securities and Exchange Commission due to violations to the books and records provisions of the Foreign Corrupt Practices Act. As part of this settlement, the company agreed to pay USD 853.2 million: (i) USD 85.3 million would be paid to the U.S. Department of Justice; (ii) USD 85.3 million would be paid to the U.S. Securities and Exchange Commission; and (iii) the remaining 80% of the penalties should be destined to Brazil, particularly to the fight against corruption.

As a result of this settlement, Petrobras entered into an independent agreement with the Brazilian Federal Prosecution’s Office in the state of Paraná to create an autonomous private foundation to manage the use of such amounts for the fight against corruption and to compensate the Brazilian people for damages caused by corruption. However, the Brazilian Attorney General’s Office subsequently filed a claim to suspend such agreement, which was granted. The execution of the agreement is now pending the review of the Brazilian Supreme Court.

Since the inception of *Lava Jato*, task forces have managed to prosecute and arrest prominent politicians. In Brazil, a series of high-level political figures have already been arrested as part of the *Lava Jato* investigations. This includes two former governors of one of the most prominent states in the country, Rio de Janeiro, and two former presidents of the republic.

		<p>On January 24, 2018, an appeals court upheld the corruption and money laundering conviction of former President Luiz Inácio Lula da Silva (“Lula”), one of Brazil’s most popular presidents, and increased his sentence to 12 years and one month. Lula remains arrested in prison and was not allowed to run for presidency in 2018.</p> <p>Along those lines, former President Michel Temer, who has already been indicted in the past for his alleged participation in the corruption scandal involving JBS S.A. (one of the largest companies in Brazil), was recently arrested after leaving office. Temer has been charged in several different criminal cases and is targeted in other criminal investigations. Temer is currently in a house arrest awaiting for trial.</p> <p>Jair Bolsonaro took office in January 2019 as the new president of Brazil. One of Bolsonaro’s first measures in office was to appoint Sérgio Moro, former federal judge who played a prominent role in <i>Lava Jato</i>, to the position of Minister of Justice.</p>
Participation in International Anti-Corruption Conventions	OAS Convention	<p>Signed March 29, 1996</p> <p>Ratified July 10, 2002</p>
	OECD Convention	Yes
	UNCAC	<p>Signed December 9, 2003</p> <p>Ratified January 31, 2006</p>
Last Updated		June 12, 2019

Region		South America
Country		Chile
2018 CPI	Rank	27/180
	Score	67
The Law on Bribery	Bribery of Domestic Officials	<p>Bribery of domestic officials is prohibited under the Chilean Criminal Code, which punishes both the offeror and the recipient of bribes.</p> <p><u>Offering a bribe:</u> Giving, offering, or agreeing to offer an economic or any other kind of benefit to a public official to which such official has no right is a crime under Chilean law. There is no need to prove a corrupt intent or quid pro quo. However, more serious cases where a quid pro quo is established, face higher penalties.</p> <p>Applicable penalties for offering a bribe to domestic officials range from two months to 10 years of imprisonment and fines, which, in the case of an offered economic benefit, are calculated as a percentage of such benefit, and which, in the most severe cases, can go up to 400% of the offered/agreed benefit. If the offered benefit is of a non-economic nature, fines may go up to a maximum of 1,500 monthly tax units (a national tax unit is currently equivalent to approximately USD 70) in the most serious cases. Within this framework, the penalties are higher in cases where a quid pro quo is proved and the bribery was paid for the performance of a concrete act. In such case, there is a distinction in the applicable penalties between cases where payment was made to perform an act in line with duty or in conflict with duty or even to perform a crime. There is also a distinction in penalties between offering a bribe, which is more serious, than to agree to give a bribe requested by a public official.</p> <p><u>Receiving a bribe:</u> It is a crime for a public official to request, accept, or agree to accept an economic or any other kind of benefit to which such official has no right. The same framework of fines established for the offeror of the bribe is applicable to the recipient. Imprisonment penalties are stricter in terms that they start from a higher minimum and range from 18 months to 10 years of imprisonment.</p> <p><u>Corporate liability:</u> Law N° 20,393 on Criminal Liability of Corporations (in force since December 2009) establishes corporate criminal liability for certain offenses, among them bribery of a national or foreign public officer and commercial bribery.</p> <p>In general, corporations cannot be criminally liable for offenses under the Criminal Code in Chile. However, the Law of Criminal Liability of Corporations creates an exception in the case of corruption and allows corporations to be liable for the bribery of local or foreign public officials if the act was done in the corporation's own interest by the corporation's owners, representatives, executives, or employees who have proper authority in carrying out the business. It has to be shown that the corporation was in non-compliance with supervision and internal control regulations.</p> <p>A corporation convicted of committing any felonies under the law can be sanctioned with monetary penalties in favor of the state, the total or partial loss of fiscal benefits or the absolute prohibition of obtaining them during a fixed term, the temporary or perpetual prohibition of executing acts or contracts with the state, and even the dissolution of the corporation or the cancellation of its juridical status. Accessory sanctions include publication of an extract of the judicial sentence (paid by the condemned corporation), the confiscation of the crime's products as well as the goods or instruments used to execute it, and when in committing the crime the corporation invests more resources than it generates, the amount invested must be paid to the state.</p>
	Bribery of Foreign Officials	<p>The bribery of foreign officials is also covered in the Criminal Code under a separate provision, which only punishes the offeror and not the foreign official who receives the bribe. Chilean courts also have jurisdiction in cases of bribery of a foreign public official committed abroad by a Chilean national or a foreigner with a habitual residence in Chile, which constitutes an exception to the principle of territoriality generally applicable in Chile.</p> <p><u>Offering bribes:</u> Criminal Code prohibits the offering or promising of an economic or any other benefit to a foreign public official in return for the foreign public official's performance or omission of an act that would provide an unfair advantage in an international transaction (or business deal) to the offeror of the bribe. Violators may face</p>

		<p>three to 10 years' imprisonment, restrictions on holding public office, and a fine ranging from 200 to 400% of the amount of the bribe. If the benefit is not financial, the monetary penalty will range from 100 to 1,000 monthly tax units</p> <p><u>Corporate liability:</u> Similar to the situation for domestic bribery, corporations can be held criminally liable for foreign bribery under the Law of Criminal Liability of Corporations and can be punished by the dissolution of the corporation, a temporary or permanent prohibition from entering into governmental contracts, loss or prohibition of governmental benefits, fines ranging from 40,000 to 300,000 monthly tax units, or disgorgement, etc.</p>
	<p>Commercial Bribery</p>	<p>Commercial bribery was not prohibited in Chile until the enactment of Law No. 21,121 in November 2018. The new law sanctions those that request, accept, offer, or give bribes of any kind in order to favor within the authority of their duties the engagement of one party over another.</p> <p><u>Receiving a bribe:</u> The employee that seeks or accepts a bribe faces up to 18 months to three years of imprisonment and, in the case of an economic benefit, a fine of 100 to 200% of the bribe, whereas of any other nature, a fine ranging from 50 to 500 monthly tax units.</p> <p><u>Offering bribes:</u> Those that offer bribes face 18 months to three years of imprisonment, whereas those who agree to offer a bribe to a private authority face imprisonments from two to 18 months. Monetary fines are established in the same lines as to those who receive the bribe.</p>
<p>Definitions</p>	<p>Government Employee</p>	<p><u>Domestic officials:</u> Under the laws of Chile, a public official is someone who holds a public office or discharges a public function at any level of government (central government, municipal, state agencies, etc.). This has usually been understood to include employees of state-controlled companies (Criminal Code art. 260).</p> <p><u>Foreign officials:</u> In the context of foreign bribery, the Criminal Code defines a foreign public official as a person who holds a parliamentary, administrative, or judicial position in a foreign state, or performs a public duty or function of that state or an official or agent of a public international organization (Criminal Code art. 251-ter).</p>
	<p>Gratification (Gifts/ Entertainments/ etc.)</p>	<p>Generally, any type of gift or benefit is prohibited as long as it is granted in order to influence the official or as consideration for an act or an omission. But criminal and administrative law exclude from the scope of bribery gifts or donations of an official nature or motivated by protocol, or of minor economic value and customarily accepted as expressions of courtesy and good manners.</p>
<p>Current Status</p>	<p>Enforcement Body</p>	<p>The Public Prosecutor's Office, which is an independent agency responsible for enforcing all criminal offenses and headed by the National Prosecutor, has a Specialized Anti-Corruption Unit. In such proceedings the State Defense Council may act as the complainant, defending the interests of the state.</p> <p>The Republic's General Comptroller's Office, which is an independent agency responsible for enforcing administrative offenses, will determine if the behavior violated a public official's duties and impose administrative sanctions, which may be appealed in court.</p>
	<p>Issues in Enforcement</p>	<ul style="list-style-type: none"> • Weak whistleblower protection (weak protection in public bribery cases, no protection in commercial bribery cases).Decentralized organization of enforcement. • Due to its novelty, there have not been many cases where anti-corruption laws have been enforced against legal entities under the Criminal Liability of Corporations law.
	<p>Recent Movement</p>	<p>After a three-year discussion in Congress, Law No. 21,121 modified the Criminal Code and other regulations, such as Law No. 20,393 that established the criminal liability of legal entities, in order to prevent, detect, and prosecute corruption. As a response to recent corruption scandals, Law No. 21,121 imposes stricter penalties and added new punishable conducts, such as commercial bribery and unlawful negotiation.</p> <p>Recently, the first trial against a legal entity for bribery of public officials and fraud has started, as the Public Prosecutor's Office proceeded to accuse one of Chile's biggest fishing enterprises. It is the first trial where applicable standards for compliance programs will be tested.</p>

Participation in International Anti-Corruption Conventions	OAS Convention	Ratified October 27, 1998
	OECD Convention	Yes
	UNCAC	Ratified September 13, 2006
Last Updated		June 25, 2019

Region		South America
Country		Colombia
2018 CPI	Rank	99/180
	Score	36
The Law on Bribery	Bribery of Domestic Officials	<p>Offering and receiving bribes are criminal offenses under the Colombian Criminal Code (Law 599 of 2000) as modified by Law 1474 of 2011 (“Anti-Corruption Statute”) and are also punishable by sanctions when involving the bribery of foreign officials in cross-border transactions, under Law 1778 of 2016.</p> <p><u>Receiving a bribe:</u> It is a crime for a public servant to receive money or any other benefit, or to accept an offer, for his/her benefit or for the benefit of another person, directly or indirectly: (i) for purposes of withholding or omitting an act under his/her responsibility; (ii) to perform an act against his/her duties as a public servant; or (iii) to perform an act that shall be performed by such public servant in connection with his/her duties. Such conduct is punishable by imprisonment for 80 to 144 months for causes (i) and (ii), for 64 to 126 months for cause (iii), and by fines and prohibition to hold public office for 80 to 144 months (Criminal Code art. 405, 406).</p> <p><u>Apparent bribe:</u> It is a crime for a public servant to receive money or any other kind of benefit, or to accept an offer, for his/her benefit or for the benefit of another person, directly or indirectly from a person who has any kind of interest in a subject matter that is under the public servant’s decision/knowledge. Such conduct is punishable by imprisonment for 32 to 90 months, fines, and prohibition to hold public office for 80 to 144 months (Criminal Code art. 406).</p> <p><u>Offering a bribe:</u> It is a crime to give or offer money or other benefits to a public servant: (i) for purposes of withholding or omitting an act by such public servant under his/her responsibility; (ii) to perform an act against his/her duties as public servant; or (iii) to perform an act that shall be performed by such public servant in connection with his/her duties. Such conduct is punishable by imprisonment for 48 to 108 months, fines, and prohibition to hold public office for 80 to 144 months (Criminal Code art. 407).</p> <p><u>Corporate liability:</u> Article 35 of Law 1778 of 2016, which modified article 34 of the Anti-Corruption Statute, provides that in addition to the individual criminal liabilities that may apply for any violations, the sanctions (see description below) established under article 91 of Law 906 of 2004 also apply to legal entities that commit any punishable acts against governmental entities or that involve public resources, whether performed by the legal entity’s legal representative or its administrators, either directly or indirectly. The sanctions established by article 91 of Law 906 of 2004 as it relates to a legal entity include: suspension of operations, cancellation of the legal entity’s registry before the Chamber of Commerce, and temporary closure of its commercial establishments.</p> <p>Furthermore, if (i) a legal entity incorporated in Colombia or a Colombian branch of a foreign entity benefited from bribery committed by a legal representative or any administrator of such legal entity for which such legal representative or administrator is convicted, and (ii) such legal representative or administrator acted willingly and consented to benefit the legal entity with such crime, the Colombian Superintendence of Companies may impose fines of up to 200,000 minimum monthly legal salaries (approximately USD 50 million) to the legal entity.</p> <p>Likewise, the Colombian Superintendence of Companies may sanction a legal entity by publishing an excerpt of the judgment against such legal entity in widely circulated media and on the website of such legal entity, for a maximum period of one year. The Colombian Superintendence of Companies may also prohibit such sanctioned legal entity from receiving any kind of incentives or subsidies from the government for a period of five years. These provisions also apply to bribery of any foreign officials.</p> <p><u>Foreign Entities liability:</u> Independent of the individual criminal liabilities that may apply, the measures established under the Anti-Corruption Statute apply to representative offices</p>

		<p>and to those that represent legal entities incorporated abroad (Anti-Corruption Statute art 131).</p> <p>Regarding criminal offenses against governmental entities or crimes that affect public resources, the relevant affected state-owned entities may bring claims against those legal entities that participated in such criminal offenses to declare them liable for any tort or civil damages claims arising from the crime.</p> <p>Pursuant to article 8 of Law 80 of 1993, those persons that committed crimes against governmental entities and are imprisoned, or engaged in transnational bribery, are not permitted to participate in any public tender or to execute any contracts with any governmental entity for a period of 20 years. Such prohibition also extends to the shareholders of any entity that is found guilty of such crimes, and to its parent companies and subsidiaries (except in the case of a publicly traded corporation).</p>
	<p>Bribery of Foreign Officials</p>	<p>It is a crime to give or offer money, objects with pecuniary value, or other benefits to a foreign public servant, for his/her benefit or for the benefit of another person, directly or indirectly, for purposes of withholding, omitting, or delaying an act in connection with his/her duties and related to an economic or commercial transaction. Such conduct is punishable by imprisonment for nine to 15 years and fines (Criminal Code art. 433).</p> <p>Article 2 of Law 1778 of 2016, which modified article 433 of the Criminal Code, states that a foreign public servant is any person with a legislative, administrative, or judicial position in a foreign governmental entity, its political subdivisions or local authorities, or foreign jurisdiction, regardless of whether the servant has been elected or appointed, and any other person who performs a public function for a foreign country, its political subdivisions or local authorities, or foreign jurisdiction (either within a public entity, government-owned organization, or any entity in which a foreign government entity has the power of decision). In addition, any person who works in an international organization is recognized as a foreign public servant (i.e., the Inter-American Development Bank, the United Nations, etc.).</p> <p>Persons convicted of any criminal offense against governmental entities are not entitled to any benefit that reduces or replaces their punishments (Criminal Code art. 68A).</p> <p>Law 1778 of 2016 regulates the liability, through administrative proceedings undertaken by the enforcement entities (<i>Superintendencia de Sociedades</i>) of legal entities committing bribery of foreign officials in cross-border transactions. Pursuant to article 2, a legal entity may be punished if any of its employees, contractors, administrators, or associates give, offer, or promise money, objects with pecuniary value, or other benefits or profit to a foreign public servant, directly or indirectly, for purposes of performing, withholding, omitting, or delaying an act in connection with such public servant’s duties. Such conduct is subject to the following punishments: (i) fines; (ii) the legal entity would not be permitted to participate in any public tender or to execute any contracts with any governmental entity for a period of 20 years; (iii) publishing an excerpt of the judgment against such company in widely circulated media and on the website of such legal entity for a maximum period of one year; and (iv) the legal entity may not receive any incentive or subsidy from the government for a period of five years.</p> <p>A parent company shall be liable and punished if any of its subsidiaries commit bribery with the parent company’s consent or acquiescence (Law of 1778 of 2016 art. 2).</p>
	<p>Commercial Bribery</p>	<p>The Anti-Corruption Statute, which came into effect in July 2011, prohibits corruption in the private sector. People who engage in bribery with non-officials may be criminally liable.</p> <p><u>Private corruption:</u> It is a crime, punishable by imprisonment for four to eight years and fines, to give or offer money without any basis or other benefits, whether directly or indirectly, to a director, manager, employee, or advisor of any corporation, association, or foundation, either for the offeror’s benefit or for the benefit of another person. (Criminal Code art. 250A).</p> <p><u>Receiving a bribe:</u> It is a crime, punishable by imprisonment for four to eight years and fines, for a director, manager, employee, or advisor of any corporation, association, or</p>

		<p>foundation to receive, request, or accept money without any basis or any other benefit (Criminal Code art. 250A).</p> <p>If the conduct that resulted in any of the above-mentioned criminal offenses causes a negative economic effect to the legal entity, the conduct will be punishable by imprisonment for six to 10 years (Criminal Code art. 250A).</p> <p>Besides the above, unlawful management and inappropriate use of corporate information are also considered crimes punishable by imprisonment.</p>
Definitions	Government Employee	<p>The Colombian Constitution and article 20 of the Criminal Code define the concept of a “government employee.” According to the Colombian Constitution, public servants are members of public entities, employees, and workers of the state and of their territorially decentralized branches and service branches (Constitution art. 123).</p> <p>A public servant performs a service to the state or the community. Public services include those inherent to the social purpose of the state (Constitution art. 365). The scope of public service must be determined by law or regulation.</p> <p>Public servants include individuals who render services to the state, either directly or indirectly. In addition, article 20 of the Criminal Code includes the following as public servants: (i) members of the military; (ii) individuals that perform state activities, permanently or temporarily; (iii) members and employees of the Central Bank; (iv) citizens that are a part of the National Citizen Commission of the Fight Against Corruption; and (v) persons who manage government-owned resources.</p>
	Gratification (Gifts/ Entertainments/ etc.)	<p>The Criminal Code (art. 405 through 407), in addition to bribery, includes benefits (<i>utilidad</i>) (presumably anything of value) and any promise with remuneration (<i>promesa remuneratoria</i>).</p> <p>However, there are no specific regulations which encompass gratification gifts, entertainment expenses, and other related expenses, the propriety of which will be determined on a case-by-case basis.</p>
Current Status	Enforcement Body	<p>The Public Ministry Office (<i>Procuraduría General</i>) has the highest responsibility for overseeing the discipline of public servants. The Judiciary Counsel (<i>Consejo Superior de la Judicatura</i>) is responsible for investigating and sanctioning judicial servants. The Attorney General (<i>Fiscal General</i>) investigates all offenses under the Criminal Code and prosecutes individuals before Criminal Courts. The General Comptroller’s (<i>Contralor General</i>) office is responsible for overseeing the use of public resources. These are independent entities (i.e., they are not beholden to the national government), and each has the power to initiate investigations.</p> <p>The Superintendence of Companies (<i>Superintendencia de Sociedades</i>), which reports to the President, is in charge of investigating alleged bribery of foreign officials in cross-border transactions. Pursuant to Law 1778 of 2016, the Attorney General and the Superintendence of Companies may enter into agreements to exchange information, gather evidence, and coordinate investigations.</p> <p>The Transparency Agency (<i>Secretaría de Transparencia</i>), which reports to the President, also plays a role in policing corruption. Specifically, it designs policies against corruption (which are then to be enacted by the President), coordinates the implementation of international treaties against corruption, designs preventive mechanisms to police corruption, and receives reports of abuse and redirects them to the proper agency for investigation.</p> <p>The National Morality Commission (<i>Comisión Nacional de Moralización</i>) is in charge of adopting and revising (on a yearly basis) a strategy for developing transparency, efficiency, and morality in governmental entities. Additionally, Regional Morality Commissions are responsible for implementing and coordinating the actions of regional government-owned entities to prevent and investigate corruption.</p> <p>The National Citizen Commission for the Fight Against Corruption (<i>Comisión Nacional Ciudadana de Lucha Contra la Corrupción</i>) is responsible for making recommendations,</p>

		<p>tracking, and evaluating anti-corruption policies. It is also responsible for promoting strategies to combat corruption in the private sector.</p>
	<p>Issues in Enforcement</p>	<ul style="list-style-type: none"> • The extent of corruption surpasses the capacity and resources of anti-corruption agencies to handle and prosecute cases creates a considerable backlog and inefficiency in investigations (this applies to both investigators/district attorneys and judges). • There is a lack of funding and strong political influences at the regional level, which makes regional investigations more difficult. • There are no whistleblower protection policies or witness protection programs. <ul style="list-style-type: none"> ○ Public servants and private parties supervising public contracts that render public services or manage public resources, and that retaliate against whistleblowers, may be subject to serious sanctions (<i>falta gravísima</i>), which include fines between 10 and 100 monthly legal salaries (approximately USD 2,500 and USD 25,000), and being prohibited from assuming a public office for 20 years. If the punishable conduct causes economic damages to governmental entities, the fine would be equal to two times the proven damages (Disciplinary Code art. 45, 56). • There is a lack of regulation regarding lobbying practices. Recent Congressional debates on diverse regulatory issues (including infrastructure and hydrocarbon production) have made the news because of the number of lobbyists present and Congress’s inability to control them. • Because there are no regulations relating to self-reporting, the government’s ability to identify corruption and bribery crimes and enforce anti-corruption laws is hindered. • In the last decade, the government has sought to improve transparency and to combat corruption. To this end, in 2011 the government established: (i) a website to allow any individual to review government finances including, for instance, local state incomes and expenses (<i>Portal de Transparencia Económica</i>); and (ii) a website to provide market information of contracts entered into by governmental entities (<i>Colombia Compra Eficiente</i>). Furthermore, in 2013 the Colombian government established a website to allow individuals—whistleblowers—to report corruption (<i>Ventanilla Única de Denuncias</i>). • Notwithstanding the foregoing, there are no user-friendly corruption websites or systems available to allow citizens and the government to monitor and report corruption and bribery practices. • There is a lack of regulation regarding donations. • Scandals have recently implicated members of the Supreme Court and the Attorney General’s office, which has further diminished the credibility of the enforcing agencies.
	<p>Recent Movement</p>	<ul style="list-style-type: none"> • The 2018 Presidential election cycle brought anti-corruption issues to the forefront, and many commentators deemed it one of the most important topics in the race. Shortly after the election, a former vice-presidential candidate spearheaded a nationwide referendum, seeking popular approval of seven wide-ranging anti-corruption initiatives (including freezing the compensation of Congress members, limiting benefits to felons convicted for corruption-related crimes, and mandating disclosure of tax filings for all elected officials, among others). The referendum drew millions of people to the polls on August 2018 but fell slightly short of a Constitutionally required participation threshold, meaning that the initiatives were not passed into law. The President committed to working with Congress to pass the initiatives into law, but circumstances have centered political attention elsewhere. • It appears there has been an uptick in enforcement, at least in high-profile cases. Recently, criminal cases dealing with alleged corruption in infrastructure projects have

		<p>yielded convictions for some top-level private sector executives and mid-level politicians and civil servants.</p> <ul style="list-style-type: none"> • Cross-border cooperation, particularly with the U.S., has led to the discovery of a corruption network inside the judicial enforcement system, causing the indictment of high-ranking court members. • There remains a question as to whether this renewed enforcement effort will trickle down to other cases.
Participation in International Anti-Corruption Conventions	OAS Convention	<p>Signed March 29, 1996 Ratified November 25, 1998</p>
	OECD Convention	<p>Signed and ratified November 20, 2012 Entered into force January 19, 2013</p>
	UNCAC	<p>Signed December 10, 2003 Ratified October 27, 2006</p>
	EU and Colombian Anti-Corruption Convention	<p>Signed September 2013</p>
Last Updated		June 3, 2019

Region		South America
Country		Ecuador
2018 CPI	Rank	114/180
	Score	33
The Law on Bribery	Bribery of Domestic Officials	<p><u>Domestic bribery laws and their elements:</u></p> <p>The Constitution and the Criminal Code are the primary pieces of legislation criminalizing corruption-related crimes. Thus, the Constitution sets forth prohibition and liability warnings to public officials when performing their duties, as well as when handling public goods and resources. The aim is to prevent them from being involved in bribery, extortion, influence peddling, embezzlement, and unlawful enrichment (Constitution, Article 233). In turn, the Criminal Code thoroughly details the provisions for bribery-related crimes, crimes against the public administration, liable subjects, criminal behaviors, and aggravating factors. Other laws such as the Organic Law on Public Service, the Public Procurement Law, the Organic Law on the Transparency and Social Control Branch, and the Organic Law on the Council for Citizen Participation and Social Control also contribute anti-bribery elements.</p> <p><u>Prohibitions on payment and reception:</u> Elements of bribery include the delivery, transfer, offer, or promise of an undue payment, benefit, donation, gift, or anything of value with the intent of provoking a positive result, omission, facilitation, conditioning, or delay of an official action. In other words, a bribe induces, or intends to induce, an alteration of the normal course of administrative or public diligences and processes, or rewards improper performance. Facilitating payments are not allowed. A third party may perform or ease the illicit or improper benefit. Sanctions may be imposed on either the accepting party (public official) or the offering party (individual). Pursuant to Ecuadorian criminal law (Comprehensive Organic Criminal Code), corporate liability does not apply to bribery-related crimes. Therefore, liability is strictly applicable to natural persons and does not apply to domestic or foreign companies. There are many debates about whether to include corporate liability in the Ecuadorian criminal law, but for now, there is no formal project on this matter</p> <p><u>Other corruption-related crimes:</u></p> <ul style="list-style-type: none"> • The key element of extortion is the abuse of power of a public official or individuals acting under state authority on behalf of a public institution. The crime consists of ordering or demanding the delivery of rights, quotas, contributions, income, interests, salaries, or gratification in their favor. A third party or private individual may carry out the extortion, and when it involves violence or threats the penalty is higher. • Regarding trafficking of influence, also known as influence peddling, this crime happens when a public official or individuals acting under state authority on behalf of a public institution influence other public officials to achieve a favorable result, either for their own benefit or in favor of a third party. An aggravation circumstance takes place when the ultimate intention is to favor private individuals to illegally obtain a public contract award or another kind of business with a state entity. The mere offer of performing trafficking of influence is already deemed a crime. Any individual can be liable for such conduct; that is to say, a third party may act on behalf of or inappropriately using the name of people acting under state authority. • Embezzlement consists of a public official or individuals acting under state authority on behalf of a public institution, who for their own benefit or on behalf of third parties appropriate, abuse, or arbitrarily use public property. This includes real estate, money, securities, or any other goods or documents under their control. • Illicit enrichment for public officials or individuals acting under state authority on behalf of a public institution applies to those who have an unjustified increase in assets.

		The benefit could be under their name or a third party. The enrichment may not only consist of increased assets but also payment or extinction of debts.
	Bribery of Foreign Officials	Ecuador does not have laws that prohibit the bribery of foreign public officials.
	Commercial Bribery	<p>Ecuador has an antitrust law (<i>Ley Orgánica de Control de Poder de Mercado</i>, “LORCPM”) which contains regulations that prohibit any corrupt dealings that would secure an unfair advantage over competitors and/or distort the market.</p> <p>Civil law protects abusive relationships between private parties, which could include fiduciary or trust breaches, as well as commercial civil collusion. These wrongdoings are subject to legal claims before civil courts. Compensation may include damages, provided the action is not considered a crime, such as commercial or civil fraud.</p> <p>The Companies Law, which regulates corporations and other legal entities, forbids them to act against the law, public policy, and good behavior. This means that, ultimately, corporations should meet constitutional standards with regards to anti-corruption.</p> <p>The Labour Code regulates employees in the private sector. It establishes that an employer is prohibited from demanding or requesting any money or benefit from a worker or employee in exchange for obtaining a position or for any other reason.</p>
Definitions	Government Employee	The definition of “Public Servant” includes anyone who is employed by an entity at any level of government (national, local, etc.) and performs a public function. This includes individuals who work in any agency of the government, such as law enforcement and military personnel (Organic Law on Public Servants [LOSEP] – Art. 4). Public servants also include employees of state-owned or state-controlled companies (Organic Law on Public Companies Art. 18).
	Gratification (Gifts/Entertainments/ etc.)	Specific regulations on gifts and hospitality are vague. Gifts and hospitality do not constitute bribery under the COIP, unless there is a corrupt purpose attached to the gift (a quid pro quo). However, the receipt of a gift or hospitality of any value by a public servant constitutes a disciplinary violation, Public officials are not allowed to request, accept or receive any gifts, money, rewards, or privileges. In such a case, there would be cause for the dismissal of the public official who receives the gift (LOSEP – Arts. 24, 42 and 48).
Current Status	Enforcement Body	<p>The Citizen Participation and Social Control Council, a government body created under the 2008 Constitution, and the Anti-Corruption Secretariat, created under a presidential decree in December 2008, have the power to conduct investigations of corruption and pursue anti-corruption strategies. However, prosecutorial power remains with the Office of the Prosecutor General (Art. 204 – Constitution). As described below in the “Recent Movement” section, a recent referendum has resulted in the planned dissolution of the council.</p> <p>The Comptroller General’s Office is entitled to audit, oversee and control actions of public entities and officials, as well as private entities and officials handling public resources. It is also entitled to impose sanctions, remove public officials from office and report findings that may lead to a criminal investigation to the State Prosecutor’s Office. In this sense, the agency audits the entities that constitute the public sector and determines administrative and civil responsibility (Art. 212 – Constitution and Art. 1 – Organic Law of the Comptroller General’s Office).</p> <p>The Financial and Economic Analysis Unit is a key stakeholder in corruption-related crime enforcement. Complementarily, corruption crimes are investigated and processed based on peer entities’ reports, international cooperation, investigative journalism (local and foreign), and citizen complaints.</p>
	Issues in Enforcement	<ul style="list-style-type: none"> Judicial processes continue to be relatively slow and subject to political influences, although there is a general perception of greater independence since the change of government in May 2017.

		<ul style="list-style-type: none"> According to the Latinobarometro 2018, 56% of respondents surveyed indicated that corruption in Ecuador has increased since last year. Relatedly, only 36% of respondents reported satisfaction with the democracy, compared to 51% in 2017.
	Recent Movement	<ul style="list-style-type: none"> Ecuador has been and continues to be in the midst of several corruption scandals, most of which focus on events that took place during the presidency of Rafael Correa, and which have led to the conviction of the Vice President and the prosecution or investigation of several government officers, including former ministers, the Comptroller General, and the Prosecutor General. The Comptroller General who was in office from 2007 until 2017, Carlos Polit, fled the country to the United States in May 2017 amidst corruption accusations, and has since then been at the center of various developing corruption investigations and scandals. The Vice President, Jorge Glas Espinel, was convicted in January 2018 of the crime of unlawful association and sentenced to six years in prison in connection with the Odebrecht corruption scandal. Congress then dismissed him from his office. The statements of an Odebrecht executive who reached an agreement with the U.S. Attorney’s Office and acted as an informer were key pieces of evidence. On February 4, 2018, a national referendum was held in which more severe punishments for acts of corruption were approved, among other reforms. The approved punishments include a lifetime prohibition on holding public office and participating in politics and full patrimonial responsibility for corruption. Laws implementing these changes are to be enacted in the near future. The February 2018 referendum also approved the dissolution of the Citizen Participation and Social Control Council and the setting up of a Transitory Council, which will evaluate the performance of the authorities designated by the CPCCS within a maximum period of six months and which may designate new ones. The authorities designated by the CPCCS include the Prosecutor General and the Comptroller. On May 13, 2019, President Lenin Moreno announced the creation of the CEICCE (Commission of International Experts to Fight Corruption in Ecuador). The work of the commission will not be to investigate cases but to give specialized technical attention for the strengthening of public institutions, and thus avoid corrupt practices. The Commission is made up of five international experts, who have been chosen according to the United Nations Convention against Corruption, with technical assistance from the UN Office on Drugs and Crime.
Participation in International Anti-Corruption Conventions	OAS Convention	Signed March 29, 1996 Ratified May 26, 1997
	OECD Anti – Bribery Convention	No
	United Nations Convention against Transnational Organized Crime	Signed December 13, 2000 Ratified September 17, 2002
	United Nations Convention Against Corruption (UNCAC)	Signed December 10, 2003 Ratified September 15, 2005
Last Updated		June 2019

Region		South America
Country		Uruguay
2018 CPI	Rank	23/180
	Score	70
The Law on Bribery	Bribery of Domestic Officials	<p>Anti-corruption provisions concerning bribery of domestic officials are mainly found in the Uruguayan Criminal Code, the Anti-Corruption Act (Law N° 17.060), and the Statute of Public Servants.</p> <p><u>Offering a bribe:</u> It is a criminal offense for a person to induce a public official to accept an economic benefit in exchange for an advantage related to the performance or the delay or failure to perform any act of his/her office. Violations are subject to one-half to two-thirds of the sanction prescribed for the crime that the public official is induced to commit if the offer is accepted (see “Receiving a bribe” below). It is considered a special aggravating circumstance to bribe a police officer or an official responsible for the investigation and prosecution of illegal activities.</p> <p><u>Receiving a bribe:</u></p> <ul style="list-style-type: none"> • <u>In violation of official duties:</u> It is a criminal offense for a public official to receive or accept, directly or indirectly, an undue benefit or promise of benefit, in return for the delay or omission of an act in conflict with his/her duties, or in exchange for the performance of an act contrary to his/her duties. Violations are subject to 12 months to six years of imprisonment, a ban from holding public functions for a period of two to six years, and a penalty ranging from 50 UR (approximately USD 1,405) to 10,000 UR (approximately USD 281,150) (Art. 158 Criminal Code). The following facts are considered aggravating circumstances, increasing the penalty by one-third to one-half: (i) entering into a contract which involves the public official’s agency; (ii) the execution of an act in contravention of the legal administrative procedures provided for the acquisition of goods or services; and (iii) the damages or benefit that the bribe could cause in a Civil or Criminal proceeding. • <u>For the performance of official duties:</u> It is a criminal offense for a public official to receive or accept an undue benefit or promise of benefit, in exchange for performing an act inherent to his/her functions. Violations are subject to three months to three years of imprisonment, a ban from holding public functions for a period of two to four years, and a penalty fee ranging from 10 UR (approximately USD 281) to 5,000 UR (approximately USD 14,057) (Art. 157 Criminal Code). <p>The Criminal Code also includes a special provision against certain practices of “middlemen” or “lobbyists” using a real or alleged influence on public officials. The crime of “Influence Traffic” (<i>tráfico de influencias</i>) is committed when a person appeals to a real or alleged influence that would allow him/her to obtain an advantage from a public office or any favorable decision from public officials. It is not necessary to make an offer to commit the criminal offense, it is sufficient to appeal to a real or alleged influence. Violators are subject to three months to three years of imprisonment (art. 158 BIS of the Criminal Code).</p>
	Bribery of Foreign Officials	<p>In general terms, there is no criminal liability attached to the bribery of foreign officials. However, there is a specific regulation for those particular public officials who offer or promise an economic advantage in return for the foreign public official’s performance of an act that would provide a benefit or advantage in connection with international trade business and activities. Violations are subject to three months to three years of imprisonment. The Criminal Code does not punish the foreign official who receives the gift (Art. 29 of the Anti-Corruption Act).</p> <p>This specific provision was adopted from the OAS Anti-Corruption Convention (article VIII).</p>

	Commercial Bribery	Uruguay does not have any regulation (legal or statutory) dealing with commercial bribery.
Definitions	Government Employee	Under the Uruguayan Criminal Code, a public official is someone who holds a public office or performs a public function, either legislative, judicial or administrative, and in the latter case, can be at any level of government (central government, municipal, state agencies, etc.). It also includes officials who have temporary contracts, and all forms of contracted temporary staff (Criminal Code, art. 175).
	Gratification (Gifts/ Entertainments/ etc.)	Uruguayan law does not provide specific definitions for these concepts. It is prohibited for public officials to receive or accept money, gifts, benefits, favors, promises, or other advantages directly or indirectly, for themselves or others, in connection with the performance of a public function (Art. 30 of the Decree 30/2012, regulatory order of the Anti-Corruption Act). There are three exceptions for this general rule: (i) official protocol recognitions; (ii) expenses related to participation in academic conferences or cultural activities; and (iii) small gifts received for reasons of custom and practice or due to celebrations for which gifts are usually given, such as Christmas, New Year’s Eve, or birthdays (Art. 32 of the Decree 30/2012).
Current Status	Enforcement Bodies	<p>The leading enforcement bodies are the National Public Prosecutor’s Office and the National Police. After the recent enactment of the Criminal Procedural Code, in effect from November 1, 2017, the National Public Prosecutor’s Office—which was established as a decentralized public body by the Act 19.334 dated August 14, 2015—focuses on the investigation and prosecution of a variety of crimes, including those in connection with corruption involving public officials.</p> <p>The Anti-Corruption Act called for the creation of a “Board of Transparency and Public Ethics” that was originally part of the structure of the Executive Branch and subsequently was transformed into a decentralized agency (Act. 19.340). Its mission is to enforce the application of the Anti-Corruption Act, including the periodic submission of affidavits by public officials, a requirement that applies for a selected group of high-profile public officials only (Arts. 10 and 11 of the Act 17.060).</p> <p>Act 19.574, dated December 20, 2017, established the “Coordinating Committee against Money Laundry and Terrorism.” This committee, on which the President of the Board of Transparency and Public Ethics has a permanent seat, among other duties, coordinates with other public bodies in order to reinforce transparency and prevent conduct related to the laundering of the proceeds of corruption-related crimes.</p>
	Issues in Enforcement	<p>The Board of Transparency and Public Ethics does not have adequate resources to perform its duties. Institutional changes were not reinforced with a satisfactory budget assignment, and the Board’s structural transformation did not grant the Board with powers to issue mandatory decisions.</p> <p>Uruguayan Criminal Procedural Code provides for the protection of witnesses, and the National Public Prosecutor’s Office has recently created a Unity of Victims and Witnesses which is in charge of providing protection to witnesses. However, much remains to be done to guarantee real protection to witnesses and whistleblowers, which could avoid discouraging reports or witness statements.</p> <p>Apart from some measurements regarding protection of witnesses, Uruguayan law does not include provisions that incentivize the reporting of suspicious cases or cooperation with enforcement bodies. A proposal has been presented to the Parliament for the broadening of the Board of Transparency and Public Ethics’s role, providing an adequate juridical frame for the Board’s reception and processing of reports of corruption acts by any person or entity, which would facilitate the reporting of suspicious acts. However, at the present, the proposal remains undiscussed.</p> <p>There is not an adequate institutional structure to efficiently prosecute minor corruption activities.</p> <p>The regulations on bribery do not extend to the activities of commercial companies that are wholly owned by public bodies, which are increasingly used by the Uruguayan</p>

		<p>government and its agencies to perform certain commercial activities and develop infrastructure projects, mainly in the transportation and energy sectors.</p> <p>The anti-corruption legislation does not expressly deal with the liability of companies for the acts of their subsidiaries, employees, and third parties. Prosecution for bribery is exclusively against individuals.</p> <p>Uruguay does not have laws that regulate commercial bribery.</p>
	Recent Movement	<p>On December 18, 2017, the former president of the board of the Banco de la República, the Uruguayan main commercial banking institution which is wholly owned by the Government, had been convicted by the Court of Organized Crime for the unlawful use of his public powers, under Section 162 of the Criminal Code, for certain actions in the framework of a public bid for the purchase of the assets, authorizations, and permits of the most important Uruguayan airline (which entered bankruptcy proceedings in 2013). In the same judgment, the court absolved the former Minister of Finance who had been prosecuted for the same criminal offense for his alleged participation in the scheme. On May 23, 2019, the Appeal Court revoked the former Minister of Finance's acquittal, and he was thus convicted for unlawful use of his public powers.</p> <p>During 2017 and 2018, the Board of Transparency and Public Ethics, despite its institutional and budget shortcomings, displayed a more active and visible role fighting corruption, including the promotion of investigations in connection with a case that eventually led to the resignation of Uruguayan Vice President Raúl Sendic on September 11, 2017. This was the first time in the country's history that a person holding such a high-ranking position in government was forced to leave office due to the unlawful performance of his public functions.</p> <p>On December 11, 2018, an Appeal Court confirmed Raúl Sendic's prosecution for the crimes of unlawful use of public powers and of graft.</p> <p>On December 20, 2017, the Anti-Money Laundering Act was enacted (Act 19.574), which consolidates, amends, and expands the anti-money laundering regulations. Section 9 of the Act precludes certain high-ranking public officials from participating in private entities based in tax havens or other jurisdictions that lack transparency in several ways, in connection with the tracing of assets or the identification of the beneficial ownership of such ventures.</p> <p>In addition, under the Anti-Money Laundering Act, political parties and other associations such as trade unions are included as entities subject to the duty to inform the authorities of suspicious transactions or activities, and this is expected to contribute to the fight against the illicit or irregular funding of such entities.</p> <p>A new Penal Procedure Code became effective on November 1, 2017, and implies a major change in the system of criminal procedure, incorporating adversarial proceedings in which the investigation of crimes and the prosecution of cases is clearly led by the technical members of the National Public Prosecutor's Office.</p> <p>A proposal is being discussed by the Parliament to reform the Penal Code, which would involve some changes in relation to crimes regarding corruption. However, due to several disagreements, the approval of the entire proposal has been delayed. The absence of any movement during 2017 may indicate that the reform proposal has failed.</p> <p>From the political arena, some groups have continued to advocate for the derogation of the unlawful use of public powers as a criminal offense in the cases that the illegality is not specifically provided by the law, which is one of the crimes in the Penal Code that may involve corruption acts. The proposal was approved by the Senate, but it has remained unapproved by the Chamber of Deputies since mid-2017.</p> <p>In 2017, a law was proposed in the Parliament that introduced as criminal offenses certain acts related to commercial bribery and to the bribery of foreign officials. The proposal remains under the study by a Commission in the Chamber of Deputies since August 2017.</p>
Participation in International Anti-	OAS Convention	Ratified October 1998 (Act. 17.006)
	OECD Convention	No

Corruption Conventions	UNCAC	Ratified December 2006 (Act. 18.056)
Last Updated		June 13, 2019

Region		South America
Country		Venezuela
2018 CPI	Rank	168/180
	Score	18
The Law on Bribery	Bribery of Domestic Officials	<p>The Law Against Corruption of 2014 (“Anti-Corruption Law”) is the primary source of law that criminalizes the bribery of domestic officials. Both the offeror and the recipient of a bribe can be punished under the Anti-Corruption Law.</p> <p><u>Bribes not in conflict with duties</u>: It is a crime when a public official receives a benefit or undue profit or a promise of such in exchange for the performance of his/her duties, punishable by one to four years imprisonment and a fine of up to 50% of the amount of the bribe (Anti-Corruption Law art. 63).</p> <p><u>Bribes in conflict with duties</u>: It is a crime when a public official receives a benefit or undue profit or a promise of such in exchange for his/her delay or omission in performing his/her duties or an act contrary to his/her duties, punishable by three to seven years’ imprisonment, and a fine of up to 50% of the amount of the bribe. Penalties can be more severe if the bribe involves a grant of public employment, subsidies, and other government contracts. (Anti-Corruption Law art. 64).</p> <p><u>Judicial bribery</u>: It is a crime when a judge receives a bribe in exchange for a favorable decision, punishable by five to 10 years of imprisonment if the court decision resulted in a judgment of over six months’ imprisonment (Anti-Corruption Law art. 64).</p> <p><u>Attempted bribery</u>: It is a crime when an individual attempts to bribe a public official but is unsuccessful in doing so. Attempted bribery is punishable by six months to two years of imprisonment for bribes not in conflict with official duties; attempted bribery in conflict with official duties is punishable by half the penalty that would be assigned for successful bribery under Article 64 (Anti-Corruption Law art. 65).</p> <p><u>Corporate liability</u>: Through the Venezuelan Law Against Organized Crime and Terrorism Financing (enacted on April 30, 2012), a corporation may be held accountable for the violations of the Anti-Corruption Law if the corrupt practice qualifies as an act of organized crime, even when the activity is committed by only one individual on behalf of the corporation.</p>
	Bribery of Foreign Officials	<p>The act of promising or actually providing a benefit or undue profit to a foreign official in exchange for the performance or omission of his/her duties is punishable by six to 12 years’ imprisonment (Anti-Corruption Law art. 85). In addition, as a signatory to the UNCAC and the OAS Convention, Venezuela will assist foreign anti-corruption authorities in investigating foreign bribery cases.</p>
	Commercial Bribery	<p>Venezuela criminalizes bribery between private parties, imposing a sanction of two to six years’ imprisonment to the parties involved under Article 47 of the Anti-Corruption Law, or four to six years of imprisonment under Article 63 of the Organic Law on Fair Prices. Commercial bribery could also be deemed a violation under Article 17 of the Anti-Monopoly Law, with the wrongdoer subject to fines based on the value of the transaction.</p>
Definitions	Government Employee	<p>According to Articles 3 and 4 of the Anti-Corruption Law, as well as Article 9 of the Organic Law of the Republic’s Comptroller General of 2010, Venezuelan law defines a “public official” as anyone who performs public functions at the service of any body or entity that exercises public power, such as:</p> <ul style="list-style-type: none"> • Any body vested with public functions; • Any body with the authority to exercise a public power; • Any body that is established by the republic, states, territories, or federal dependencies or metropolitan districts and municipalities;

		<ul style="list-style-type: none"> • Any body, including companies, civil associations, and nonprofit foundations, where at least 50% of the share capital is owned by the government or state entities; • All public universities; and • The Venezuelan Central Bank.
	<p>Gratification (Gifts/ Entertainments/ etc.)</p>	<p>It is not clear under the Anti-Corruption Law what is deemed an undue gratification that would therefore constitute corruption under the statute. The Anti-Corruption Law refers generally to undue profits, donations, benefits, and the promise of such undue gratification as constituting corruption when received by a public official in exchange for some act or omission. The Anti-Corruption Law does not specify whether a gratification must be monetary in order to constitute corruption. Separate from the Anti-Corruption Law, receipt of gifts may constitute violations of the Code of Ethics for a Public Official and therefore result in disciplinary penalties thereunder.</p>
<p>Current Status</p>	<p>Enforcement Body</p>	<p>The General Comptroller’s Office (“GCO”) is responsible for monitoring government revenues and expenses. The General Public Prosecutor’s Office (“GPPO”) is responsible for handling criminal cases (including corruption) and has the power to designate specialized authority to investigate issues relating to corruption. Both bodies were intended to be autonomous and independent but in practice are affected by political influence. The National Financial Intelligence Unit aims to uncover and prevent money laundering and counter terrorist financing.</p>
	<p>Issues in Enforcement</p>	<p>There is a perception that extensive corruption exists in both the public and the private sector and that there is a lack of real commitment to fight corruption in Venezuela. The country faces the following issues:</p> <ul style="list-style-type: none"> • Enforcement bodies such as the GCO and the GPPO may be influenced by politics, and there is a perception that political factors impact their investigations (such as investigations into potential political candidates leading to disqualification). • Both the GCO and the GPPO lack institutional resources and funding. • The Supreme Tribunal of Justice and other Venezuelan courts are currently influenced by politics. • There is a mistrust of the justice system. • President Nicolás Maduro has made a concerted effort to restrict pluralistic democracy and has violated the principle of separation of powers. While Venezuela formally has separation of powers, in many ways power remains monopolized by the executive branch disguised as multiple public entities. Given that there is no separation of powers or independent justice system, it is difficult to strengthen institutions that could keep corruption in check. • There is an increasing rate of impunity. According to the GPPO and NGOs, the impunity rate in prosecutions exceeds 90%.
	<p>Recent Movement</p>	<p>There have not been any recent announcements from Venezuelan officials regarding new anti-corruption legislation or regulations; however there have been prominent corruption investigations and convictions in recent months:</p> <ul style="list-style-type: none"> • In November 2018, Prosecutor General Tarek William Saab reported that his office had uncovered more than 18 cases of corruption related to the oil industry; that for crimes of corruption and money laundering, 10,727 people had been charged and another 4,116 accused; and that 30 prosecutors had been arrested for corruption, 19 of which had been convicted. • On May 10, 2019, the prosecutor general announced the arrest and detention of Massimo Giuseppe Decaro Prado for embezzlement in the Orinoco Oil Belt. • Venezuela is awaiting the extradition of Alejandro Andrade, a former public official recently sentenced in a United States court to 10 years’ imprisonment for the embezzlement of more than USD 1 billion.

Participation in International Anti-Corruption Conventions	OAS Convention	Signed March 29, 1996 Ratified May 22, 1997
	OECD Convention	No
	UNCAC	Signed December 10, 2003 Ratified February 2, 2009
Last Updated		June 5, 2019

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