



ANTI-CORRUPTION REGULATION SURVEY OF 41 COUNTRIES

2017-2018



Table of Contents

GLOSSARY	iii
Africa	1
Kenya.....	1
Mozambique	8
South Africa.....	11
Asia Pacific	16
Australia.....	16
China	20
Hong Kong.....	24
Japan	28
South Korea.....	32
Taiwan.....	35
Europe	37
Austria.....	37
Belgium.....	41
France.....	43
Germany.....	50
Italy.....	53
The Netherlands	57
Poland.....	59
Russia	62
Spain.....	64
United Kingdom	67
Middle East	70
Saudi Arabia	70
United Arab Emirates.....	73
North America	77
Canada	77
Mexico	81
United States of America.....	86
South America	91
Argentina	91
Brazil	97
Chile.....	102
Colombia	105
Ecuador	110
Uruguay.....	113
Venezuela	116
South Asia	118
India.....	118
Southeast Asia	121
Indonesia	121
Laos.....	124
Malaysia	126
Myanmar.....	129
Philippines.....	132
Singapore	136
Thailand	140
Timor-Leste	145
Vietnam	148
JONES DAY CONTACTS BY COUNTRY	151

Introduction to the 2017-2018 Anti-Corruption Regulation Survey

Welcome to the 2017-2018 edition of the Jones Day Anti-Corruption Regulation Survey. In 2017 and 2018 to date, 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 2017 and 2018 to date, including, among others, Argentina, China, Italy, Mexico, Saudi Arabia, the United Arab Emirates and the United States. Furthermore, since the beginning of 2017, there have been other significant developments in several countries related to anti-corruption, especially with respect to enforcement, such as in Brazil, Hong Kong, Japan, the Philippines, Saudi Arabia and South Africa. Other countries included in this Survey have pursued proposed amendments to anti-corruption regulations, the restructuring of anti-corruption enforcement bodies and enhanced coordination with the anti-corruption authorities of other jurisdictions.

This Survey is intended to provide an overview of the complex and evolving anti-corruption regulations in the 41 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 may 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., agent, vendor or customer) from another country, this Survey may be useful in giving a sense of potential areas of risk in relation to the prospective partner's local business activities.
- **Considering efficacy of compliance programs.** This Survey may be helpful for companies in considering whether and how to develop a compliance program on a national, regional and/or global basis. In this regard, a good starting point is having an understanding of whether particular activities (for example, providing certain gifts or entertainment) could violate local regulations.

In this Survey, the countries are organized by region and then alphabetically by country. For each country, the same categories 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 identifies the CPI scores and ranks of each of the 41 countries covered herein. 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 February 21, 2018, the CPI ranked 180 countries based on their scores. This Survey also 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 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.

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 February 21, 2018, 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 October 3, 2017, there are 140 signatories and 183 parties to the UNCAC, including the European Union.

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Region		Africa
Country		Kenya
2017 CPI	Rank	143/180
	Score	28
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 6 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 which 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:

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

Receiving a bribe: It is a crime for a person to corruptly receive or agree to receive a benefit (ACEC sec. 39(3) (a)).

“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.

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.

Corporate liability: 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.

The Proceeds of Crime and Anti-Money Laundering Act 2009 (“POCAMLA”)

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.

Money laundering is an offense under Section 3 of POCAMLA, which is defined as:

“a person who knows or who ought reasonably to have known that property is or forms part of the proceeds of a crime, and:

- 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,

whose effect is to:

- 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.”

Proceeds of a crime is defined in Section 2 of POCAMLA as:

“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.”

The failure to report suspicions regarding the proceeds of crime is also an offense under POCAMLA.

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:

- a) Seeking revocation of licenses for financial and real estate institutions that are used as conduits for money laundering activities;
- b) Issuing warnings and directions to reporting institutions;
- c) Barring persons from employment with reporting institutions;

		<ul style="list-style-type: none"> d) 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. e) 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 only apply 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"> (a) 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 (b) the foreign official is neither permitted nor required by the written law applicable to him or her to be influenced in his or 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 or her functions, including: <ul style="list-style-type: none"> (a) any omission to exercise those functions; and (b) 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"> (a) where the performance of the functions intended to be influenced would be subject to the law of Kenya, the law of Kenya; (b) where the official is an agent of a public international organization, the applicable written rules of that organization; or (c) 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"> (i) any provision made by or under legislation, applicable to the country or territory concerned; or (ii) 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"> (a) business for the private entity; or (b) 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, 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) a body which is incorporated under the laws of Kenya and which carries on business in or outside of Kenya; (b) any other body corporate however established which carries on business, entirely or partially within Kenya; (c) a charity or such organization established under the law of Kenya or one established for any other purpose; (d) a partnership which is formed under the law of Kenya and which carries on business, in or outside of Kenya; (e) 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"> (a) the Government or any department, service or undertaking of the Government; (b) the National Assembly or the Parliamentary Service; (c) a local authority; (d) 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; (e) a co-operative society established under the Co-operative Societies Act; (f) a public university; (g) 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 Constitution 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 state

		<p>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>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. • 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 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 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

		<p>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 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” US \$256,000 from the Kenya Government, which funds had been allocated to the National Olympic Committee of Kenya for the travel and accommodation 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 (the “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 show probable cause to warrant recommendations against her. • <u>The Construction of Kenya’s Standard Gauge Railway (the “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>January 29, 2018</p>

Region		Africa
Country		Mozambique
2017 CPI	Rank	153/180
	Score	25
The Law on Bribery	Bribery of Domestic Officials	<p>The Parliament of Mozambique first adopted legislation on corruption called 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 2 to 8 years and fines (ACA art. 9, cl. 1). However, the penalties may be reduced if the action was committed to protect the offeror-violator 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 2 to 8 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 2 and 8 years and a fine (of up to a maximum of approximately EUR 175/day) for up to 1 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, though 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, except that 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 (Gabinete Central de Combate à Corrupção, 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 2017, the Mozambican Parliament approved Law no. 4/2017 of January 18, which comprises the Organic Law of Public Prosecution and the Legal Status of Public Prosecutors. This law revoked Law no. 22/2007. The new Law on Public Prosecution

		<p>formalizes the inclusion of the GCCC into the structure of the Public Prosecution, which is defined as a hierarchically organized service under the Prosecutor General.</p> <p>Under the new Prosecution Service Law, the Director and Provincial Directors of the GCCC are members of the Coordinating Council of the Public Prosecution, which is a body within the Public Prosecution Service that analyzes and approves resolutions relating to fundamental matters at the Public Prosecution Service and its various bodies.</p> <p>Articles 78 through 87 of the new Prosecution Service Law clearly state the powers of the GCCC. The Director of the GCCC has the power, among others, to annul decisions of Subordinated Public Prosecutors and request from public and private entities information that may be deemed relevant for the completion of ongoing investigations. The Director of the GCCC is also required to present a yearly report of activities and possesses the authority to request that the Public Administration conduct inquiries, inspections, audits and other investigations whenever necessary to verify the conformity of certain acts or procedures regarding the relationship between public and private entities.</p> <p>Also in 2017, the Mozambican Parliament approved Law no. 2/2017 of January 9, which created the National Service of Criminal Investigation (SERNIC). SERNIC is a paramilitary public service organization focused on criminal investigation that was created to assist with the administration of justice. SERNIC’s administrative, technical and tactical autonomy operates under the supervision of the Minister, who supervises the areas of order, security and public tranquillity in a manner that does not affect SERNIC’s autonomy. Under the direction of public prosecutors, SERNIC agents must perform the actions required in criminal investigations of ongoing processes in relevant offices and may support the offices of the GCCC.</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>January 30, 2018</p>

Region		Africa
Country		South Africa
2017 CPI	Rank	71/180
	Score	43
The Law on Bribery	Bribery of Domestic Officials	<p>The Prevention and Combating of Corruption Act of 2004 (the “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 art. 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 art. 3(a)).</p> <p>In addition to the general offense of corruption (PRECCA art. 3), the PRECCA further identifies specific acts that would be deemed corrupt, given the role, office or authority that the offender holds:</p> <ul style="list-style-type: none"> • Public officers (PRECCA art. 4) • Legislative authority (PRECCA art. 7) • Judicial officers (PRECCA art. 8) • Prosecuting authority (PRECCA art. 9) <p>The punishment is subject to the discretion of the court responsible for sentencing:</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 5 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. Corporate entities convicted of a corruption offense under the PRECCA may be subject to fines to an unlimited extent. The 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> Any person who holds a position of authority (including within a private corporation) has a duty under the PRECCA 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 art. 34).</p> <p><u>Proposed Amendments:</u> The Department of Justice and Correctional Services has recently 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, including guidelines for how corporate fines should be calculated; • expressly prohibiting facilitation payments (although these payments were already illegal based on an interpretation of PRECCA); • expanding the extraterritorial application of PRECCA; and

		<ul style="list-style-type: none"> • creating the offense of “unacceptable conduct relating to a witness,” which relates to witness interference and intimidation. <p>The two most 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; 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 the PRECCA, which mirrors the provisions on domestic public bribery for offerors of bribes, and 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 art. 5). The degree of the penalty 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 any gratification by an agent, and the accepting or giving of any gratification by a third person to/from an agent (PRECCA art. 6). As with bribery of domestic officials, the degree of penalty is subject to the discretion of the court.</p>
<p>Definitions</p>	<p>Government Employee</p>	<p>A “public official” 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 officials (and are covered in separate articles under the PRECCA).</p> <p>A “foreign public official” under the PRECCA includes anyone holding a legislative, judicial or administrative office in a foreign state, any person performing public functions, as well as any official of a public international organization.</p>
	<p>Gratification (Gifts/ Entertainments/ etc.)</p>	<p>The 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, employment and other types of benefits. There is no minimum threshold stipulating what constitutes gratification.</p> <p>Unlike the FCPA, the 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 solely to investigating corruption and reports directly to the president. Since the SIU lacks the authority 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.</p> <p>South African Police Service</p> <p>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. The</p>

primary corruption agencies within the SAPS are the Directorate for Priority Crime Investigation (the “Hawks”) and Commercial Crimes Unit.

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 Services.”

Public Protector

The Public Protector was established in art. 181 to 183 of the Constitution, 108 of 1996. 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.

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.

Asset Forfeiture Unit

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>Issues in Enforcement</p>	<ul style="list-style-type: none"> • Lack of political will to address high profile corruption. • Anti-corruption agencies are not sufficiently independent from political interference. • The police and other investigative agencies are themselves plagued by corruption, and 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. • Despite being a comprehensive piece of legislation, there have been very few prosecutions under the PRECCA. • 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 entitled “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.
	<p>Recent Movement</p>	<ul style="list-style-type: none"> • The U.S. Securities and Exchange Commission (the “SEC”) announced on September 28, 2015 that a major Tokyo-based multinational company (“JapanCo”) agreed to pay US \$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 US \$5.6 billion. <p>This marks the first FCPA settlement for violations that have taken place entirely in South Africa.</p> <p>The SEC alleged three types of improperly recorded payments by JapanCo:</p> <ol style="list-style-type: none"> 1) JapanCo paid Chancellor House approximately US \$1.1 million in 2008 related to two invoices that Chancellor House referred to as “tender support fees,” which were recorded as “consulting fees” in JapanCo’s expense accounts; 2) In June 2012, JapanCo paid Chancellor House approximately US \$5 million as “dividends” for its 25 percent shareholding in the company; and 3) In 2014, JapanCo repurchased the 25 percent shareholding it had sold to Chancellor House in 2005. Chancellor House had acquired its stake for US \$190,819 and sold the shares back to JapanCo for US \$4.4 million. <p>In all, the SEC alleged that payments of approximately US \$10.5 million from JapanCo resulted in a return in excess of 5000 percent for Chancellor House.</p> <ul style="list-style-type: none"> • In June 2015, former Deputy National Police Commissioner Hamilton Hlela was convicted on charges of corruption relating to the awarding of multimillion-rand contracts. Hlela pleaded guilty and was fined R76,000 and sentenced to 10 years in jail, suspended for 5 years, by the Specialised Commercial Crimes Court in Pretoria. He admitted to personally benefiting by receiving a total of R76,203.00 (in various forms of gratification) from Midway Two Holdings, a company that was awarded tenders to the value of R4 billion between 2007 and 2008 by the SA Police Service’s bid adjudication committee, which Hlela chaired. • In September 2016, the former Transport Minister Sibusiso Ndebele and four co-accused appeared at the Commercial Crime Court on charges of fraud, corruption, racketeering and bribery, charges against him related to the extension of a multibillion tender national register project contract at the Department of Transport while he was minister. • The arrest of senior FIFA officials in May 2015: South Africans have reportedly been implicated in an allegedly corrupt payment forming part of the charges of fraud, money laundering and racketeering being investigated by United States authorities. It remains to be seen whether South African citizens will be charged in connection with the 2010 World Cup that was held in South Africa. In December 2016, FIFA’s Ethics Committee banned the former South African Football Association (the “SAFA”) President, Kirsten

		<p>Nematandani, from football for 5 years for violating its code of ethics and for allegations of match-fixing.</p> <ul style="list-style-type: none"> The Chief Officer for Business and Individual Taxes for the South African Revenue (the “SARS”) Jonas Makwakwa was suspended in October 2016 on reported suspicious payments totaling R1.2 Million that were paid into his personal banking account and for allegedly using his influence at the SARS to secure a position for his girlfriend. In December 2016, the Kimberley High Court sentenced the former Finance MEC John Block to 15 years of imprisonment for corruption and money laundering, and an additional forfeiture order for R2 million was made against him. <p><u>The “State Capture” Scandal:</u></p> <ul style="list-style-type: none"> For much of 2017 the South Africa media spotlight focused on 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 scandal has been colloquially referred to as “State Capture.” The State Capture scandal has reached further than just the companies owned by the Gupta family; multiple multi-national 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. Criminal charges in connection with the State Capture allegations have been laid against the local units of certain multinational companies. In the fourth quarter of 2017, South Africa’s parliament engaged in a formal inquiry into the allegations of State Capture, focusing on corruption involving three major South African state-owned entities, Eskom, Transnet and Denel. This is the most significant analysis of state corruption in South Africa’s history. In October 2017, the Supreme Court of Appeal ruled that former President Jacob Zuma must face 783 charges of corruption which were first brought against him in 2005.
<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>February 15, 2018</p>	

Region		Asia Pacific
Country		Australia
2017 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, 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, or 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 to prosecute 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 who will work in conjunction with, amongst 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 Attorney-General’s Office.</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. • Federal prosecutors are arguably inadequately prepared for the complexity of major trials with an international dimension. • AFP officers have not traditionally been provided with the skills and resources to pursue long-running, complex and multi-jurisdictional 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 also a member of the specialized International Foreign Bribery Taskforce (IFBT), which involves law enforcement representatives from the FBI, the UK’s National Crime Agency and the Royal Canadian Mounted Police.
	<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. After a number of extensions, the report is due to be released in February 2018.</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 (Convention). 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 US \$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>The OECD also concluded that Australia has taken substantial steps to improve its framework for detecting and investigating foreign bribery (including various proposed amendments to the legislative regime discussed below). The OECD has recommended, amongst other things, that the federal government continue to resource the AFP and CDPP at appropriate levels commensurate with the increasing level of investigative activity and that the government find additional ways to encourage companies to develop and adopt adequate internal controls for preventing and detecting foreign bribery.</p> <p>Also 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”). Amongst the proposed changes, the Bill would introduce 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 and 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>

		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 only apply 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.
Participation in International Anti-corruption Conventions	OECD Convention	Yes
	UNCAC	Signed December 9, 2003 Ratified December 7, 2005
Last Updated		January 20, 2018

Region		Asia Pacific
Country		China
2017 CPI	Rank	77/180
	Score	41
The Law on Bribery	Bribery of Domestic Officials	<p>The Criminal Law of the PRC (the “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: (1) give state functionaries property in order to seek illegitimate gain; or (2) 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: (1) 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 (2) 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) which: (1) solicit or illegally accept property from others in exchange for benefits to the person providing the property; or (2) 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	Commercial bribery means any bribery that occurs in the purchase or sale of goods or services. While it can arise in the context of bribery of domestic or foreign officials, it also includes bribery of private individuals, including the following:

		<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: (1) all personnel of state organs; (2) personnel performing state functions in state-owned corporations, enterprises, institutions and people’s organizations; (3) 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 (4) 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: (1) background of the property transaction (e.g., relationship of the parties); (2) value of the property; (3) 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 (4) whether the recipient has used his/her position to reward the offeror.</p> <p>The interpretation jointly issued by the Supreme People’s Court (the “SPC”) and the Supreme People’s Procuratorate (the “SPP”) 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 2015 version of the Foreign Investment R&D-Based Pharmaceutical Association Committee Code only allows members to provide healthcare professionals with promotional aids of minimal value, i.e., below RMB 100 in value).</p>
<p>Current Status</p>	<p>Enforcement Body</p>	<p>The People’s Procuratorate (the “Procuratorate”) 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 Procuratorate.</p> <p>The State Administration of Industry and Commerce (the “AIC”) and its local branches are responsible for enforcing the anti-bribery provisions in the Anti-Unfair Competition Law and the Government Procurement Law by taking administrative actions and imposing administrative fines.</p> <p>The Central Commission for Discipline Inspection (the “CCDI”) and its local branches are responsible for internal Communist Party discipline and investigation.</p>
	<p>Issues in Enforcement</p>	<p><u>The Procuratorate and the Police:</u></p> <ul style="list-style-type: none"> Both departments are only authorized to investigate and/or prosecute bribery crimes that meet certain threshold requirements. For instance, for the crime of individuals/entities offering a bribe to a state functionary (individuals/entities),

		<p>PRC authorities will only prosecute bribes of more than RMB 10,000, unless an exception applies.</p> <ul style="list-style-type: none"> The Supreme People’s Procuratorate of China (the “SPP”) has established a nationwide database to record and track those who have been convicted of the crime of offering a bribe. The general public can access the database via application. According to the SPP, in 2016, the database was consulted more than 10 million times. The database can be found at http://www.yfw.com.cn/xhfzdacx/. A company with a bribery conviction in the database could potentially be disqualified from participating in certain activities, such as government procurement, government construction, credit financing and pharmaceutical and medical device procurement. <p><u>The AIC:</u></p> <ul style="list-style-type: none"> The AIC’s investigative powers are limited compared to those of the Procuratorate and the Police. As a result, in serious cases, the AIC 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 AIC’s 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 U.S., 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. 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 who 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 for free after paying huge fines to the U.S.</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 (the “CPC”), Xi stated that 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</p>

		<p>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>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:</p> <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: <ol style="list-style-type: none"> 1. Employees of the counterparty in a transaction; 2. Entities or individuals entrusted by the counterparty in a transaction to handle relevant affairs; and 3. 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><u>Case Developments</u></p> <ul style="list-style-type: none"> • In November 2017, the Shanghai AIC penalized the joint venture of Bristol-Myers Squibb and Shanghai Pharma (“BMS Shanghai”) for providing travel costs (including business class airfare) to a Shanghai hospital official to attend a European medical conference. The Shanghai AIC fined BMS Shanghai RMB 100,000 and confiscated its illegal gains of RMB 772,537. • In December 2017, the Shanghai AIC fined Chiesi Pharmaceutical (Shanghai) Co., Ltd. RMB 150,000, and confiscated illegal gains of RMB 299,258 for providing side trips to doctors during academic seminars.
<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>February 3, 2018</p>

Region		Asia Pacific
Country		Hong Kong
2017 CPI	Rank	13/180
	Score	77
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) (the “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>Offering a bribe: 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>Soliciting or accepting a bribe: 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>Extraterritorial application of POBO: 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 extra-territorial 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 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>Penalties: Penalties for the above offenses generally range from HK\$500,000 to HK\$1 million and imprisonment for 7-10 years for conviction on indictment, and from HK\$100,000 to HK\$500,000 and imprisonment for 3 years for summary conviction. Penalties for offenses under Section 3 of the POBO consist of a fine of HK\$100,000 and imprisonment for 1 year. The court may also order additional fines to be paid.</p>
	Bribery of Foreign Officials	<p>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</p>

		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"> (a) an employer; (b) a beneficiary under a trust; (c) a trust estate as though it were a person; (d) any person beneficially interested in the estate of a deceased person; (e) the estate of a deceased person as though it were a person; and (f) in the case of an employee of a public body, the 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. “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 Independent Commission Against Corruption (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>In December 2017, Hong Kong’s Securities and Futures Commission (“SFC”) for the first time joined forces with the ICAC to raid the offices and premises of two listed companies in Hong Kong. This new approach towards regulation and enforcement by authorities is an attempt to improve efficiency and reduce overlapping efforts in investigations of the same companies for different irregularities. However, this approach raises concerns that findings and evidence will be shared between different authorities for further investigation and prosecution.</p> <p>Recent cases (see below) involving senior government officials, business tycoons and a pro-Beijing lawyer show that the ICAC has been active in prosecuting high profile cases and acting without interference. These judgments have sent a clear message to the public that Hong Kong courts will faithfully apply the rule of law and maintain a zero-tolerance policy in relation to corruption by public officials.</p> <p>In late 2017, the former Hong Kong home secretary, Patrick Ho Chi-ping, was indicted in the United States for allegedly bribing African officials on behalf of a Chinese energy company. However, Hong Kong does not have any stand-alone legislation specifically prohibiting the bribery of foreign officials, and the application of POBO is limited to</p>

		<p>advantages being received or offered in Hong Kong. It remains to be seen when Hong Kong will introduce legislation targeting the enforcement against bribery of foreign officials where the operative conduct occurs outside of Hong Kong.</p>
	<p style="text-align: center;">Recent Movement</p>	<p>High-Profile Cases and Important Developments in 2017</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> <ul style="list-style-type: none"> • After 3 years of investigation, the trial against the former Chief Executive of Hong Kong, Donald Tsang Yam-kuen, was finally held in 2017. Donald Tsang Yam-kuen was charged with two counts of misconduct in public office. Tsang’s 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. In February 2017, Tsang was sentenced to 20 months of imprisonment for the first count of misconduct in public office, but the second count resulted in a split decision. Tsang will return to court in April 2018 to appeal his conviction on the first count of misconduct in public office. From September to November 2017, a second trial for the second count was conducted but the jury was unable to deliver a verdict as to whether Tsang was guilty of accepting an advantage as the Chief Executive between 2010 and 2012. It is possible that Tsang will have to face a third trial. • In June 2017, the final appeal of the case of Thomas Kwok Ping-kwong, former joint Chairman of Sun Hung Kai Properties (the “SHKP”), a major property developer in Hong Kong, and Rafael Hui Si-on, former Chief Secretary for Administration, was decided. Hui was charged with receiving from other defendants including Kwok undisclosed payments totaling HK\$8.5 million. The defendants were charged with conspiracy on the basis that Hui would willfully commit misconduct in the course of or in relation to his public office by being or remaining favorably disposed to the SHKP, which is controlled and managed by some of the defendants and their family. The case was heard at the Court of Final Appeal in June 2017 where the Court dismissed the defendants’ appeals on the grounds that Hui impaired “his capacity to exercise a disinterested judgment on the merits of the transaction from the point of view of the public interest” which made him “a servant of the person who pays him, instead of a representative of the people.” The Court of Final Appeal found that the payment was made to secure an ongoing inclination on the part of Hui towards SHKP and he was in “golden fetters” constituted by the acceptance of payment to commit an act of misconduct in public office. The prosecution did not need to prove any specific act of favorable disposition. The appeal was dismissed and the defendants shall serve their term of imprisonment – 5 years for Kwok and 7.5 years for Hui as decided by the Court of First Instance in 2014. • The case concerning a well-known television host, Stephen Chan Chi-wan, former General Manager of Hong Kong-based Television Broadcasts Limited (the “TVB”), and his assistant, Tseng Pei-kun, was heard at the Court of Final Appeal in February 2017. The trial started in 2011 at the District Court where Chan was charged with accepting an advantage of \$112,000 through Tseng’s company, by appearing in a shopping mall event (the “Event”) to perform in a side-show entitled “Be My Guest” (the name of Chan’s program at TVB). The Court of Final Appeal unanimously acquitted the defendants on the ground that the defense of “reasonable excuse” was established. The terms “lawful authority” and “reasonable excuse” are not defined in the POBO. They are construed based on the specific facts of each case and the burden of proof lies on the defendant. To be convicted under Section 9 of POBO, an agent’s act or forbearance has to be “in relation to his principal’s affairs or business” and such act or forbearance must be “aimed at” and intended to “influence or affect” the principal’s affairs. In the instant case, the defendants’ conduct was not captured under Section 9 of POBO because Chan’s appearance at the Event was wholly in line with and beneficial to TVB’s interests. There was no prejudice to TVB and the court was forced to consider that TVB had consented to Chan performing in the Event just to

		<p>boost audience ratings of “Be My Guest,” even though TVB may not have been aware of the exact amount of Chan’s remuneration.</p> <ul style="list-style-type: none"> • The case of Kennedy Wong Ying-ho, a prominent lawyer, a delegate to the Chinese People’s Political Consultative Conference (Beijing’s top political advisory body) and former Chairman and Executive Director of Hong Kong Resources Holdings (“HKRH”) was prosecuted under Section 9(2)(a) of POBO in relation to an acquisition made by HKRH. The judgment for this case is still pending.
Participation in International Anti-corruption Conventions	OECD Convention	No
	UNCAC	<p>Signed December 10, 2003</p> <p>Ratified January 13, 2006</p> <p>(Hong Kong is a participant by virtue of China’s participation in the UNCAC)</p>
Last Updated		January 17, 2018

Region		Asia Pacific
Country		Japan
2017 CPI	Rank	20/180
	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) (the "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 3 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 1 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 5 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 7 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 a bribe to be given to a third party, shall be subject to up to 5 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 1 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, and 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 5 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 3 years imprisonment with work (APPOPEI art. 1; a sentence of up to 2 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 5 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 and 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 5 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 5 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: (1) public services for national or local foreign governments; (2) services for an agency affiliated with a foreign national government; (3) services for a public enterprise which is given special privileges by a foreign national government, etc.; (4) public services for an international organization; and (5) 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” mean 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>

Current Status	Enforcement Body	The Public Prosecutor’s Office and the National Police Agency.
	Issues in Enforcement	<p>From 1999, when the offense of bribery of foreign public officials entered into force, through 2017, there were only three cases that are publically available in which the Japanese government obtained convictions for the bribery of foreign public officials. The OECD Working Group on Bribery recommended in December 2013 that Japan establish an Action Plan to organize police and prosecution resources to be able to proactively detect, investigate and prosecute cases of foreign bribery by Japanese companies. Japan’s Action Plan, which became operational in April 2014, creates newly specialized resources for detecting and investigating cases of foreign bribery in the three largest district prosecutor’s offices and each prefectural police office. Although the Action Plan lacks important details, it marks the first time that prosecutors and police in Japan have been assigned responsibility for specific crimes. The Working Group expected the Action Plan to be much more fully developed by December 2014, but this has not yet occurred. According to news reports, in October 2013, an officer of an automobile muffler manufacturer received a summary order and paid a fine of 500,000 yen for giving a bribe to local Chinese government officials in return for overlooking the illegal operations of factories located in China. And in July and August of 2014, a railway consultancy company and its officers were prosecuted for giving bribes to public officials in Vietnam, Indonesia and Uzbekistan in return for receiving favorable treatment.</p>
	Recent Movement	<p>Revisions to the Guidelines to Prevent Bribery of Foreign Public Officials</p> <p>On July 30, 2015, the Ministry of Economy, Trade and Industry (“METI”) revised the Guidelines to Prevent Bribery of Foreign Public Officials (the “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>Moritomo Scandal and Kake Scandal</p> <p>In 2017, it was suspected that the influence of the prime minister or his wife influenced the government’s decision-making process over certain school operators – referred to as the “Moritomo scandal” and the “Kake scandal.” In the Moritomo scandal, it surfaced that the Finance Ministry had sold a government-owned tract of land in Toyonaka, Osaka Prefecture</p>

		<p>at a steep discount to Moritomo Gakuen, an Osaka-based school operator, for the construction of a new elementary school. The land, which originally had an appraisal value of ¥956 million, was sold at a mere 134 million yen, or a discount of more than 800 million yen. The fact that Prime Minister Shinzo Abe’s wife, Akie, was listed as honorary principal of the planned school gave rise to suspicions that the government offered the steep discount out of favoritism. In July 2017 Osaka prosecutors arrested the operator of Moritomo Gakuen and his wife on suspicion of fraudulently obtaining government subsidies in connection with the construction of the school.</p> <p>In the Kake scandal, suspicions emerged that Prime Minister Abe may have been involved in a government decision to approve the opening of a veterinary medicine department at the Okayama University of Science in a special strategic zone set up in Imabari, Ehime Prefecture. The Okayama University of Science is run by school operator Kake Gakuen, which is headed by a longtime friend of Abe.</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>
<p>Last Updated</p>		<p>January 17, 2018</p>

Region		Asia Pacific
Country		South Korea
2017 CPI	Rank	51/180
	Score	54
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 Concerning Aggravated Punishment of Specific Crimes (the “Specific Crimes Act”) and the Act on Anti-Corruption and the Establishment and Operation of the Anti-Corruption and Civil Rights Commission (the “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 5 years imprisonment or 20,000,000 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 5 years imprisonment) and a fine which is not less than 2 times but not more than 5 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 1 year 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 Anti-Graft Act as noted below.</p>
	Bribery of Foreign Officials	<p>The bribery of foreign public officials is prohibited by the Act on Preventing Bribery of Foreign Public Officials in International Business Transactions (the Foreign Bribery Prevention Act; the “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 5 years imprisonment and/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, an agent, an employee, or a 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. When one 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, both persons may be punished by imprisonment or by a fine (Criminal Code art. 357).</p>
Definitions	Government Employee	<p>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 Specific Crimes Act has identified 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 an interest in the performance of the officials’ duties.</p> <p>The Code of Conduct for Public Officials issued by the president and amended in 2010 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 Act on the Prohibition of Improper Solicitation and Provision/Receipt of Money and Valuables (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 is comprised of at least 50 percent 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 unless the corporation exerted significant 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 (the “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 Act on the Prohibition of Improper Solicitation and Provision/Receipt of Money and Valuables, 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 school teachers 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 the taking, demanding or promising to receive something with a value exceeding (i) 1 million won per occasion or (ii) 3 million won per fiscal year (the "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 3 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 provision of anything of value, and consequently (i) a person who improperly solicits a public official may face an administrative fine of up to 20 million won and (ii) the public official may be subject to a fine of up to 20 million won or imprisonment of up to 2 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>
Participation in International Anti-corruption Conventions	OECD Convention	Yes
	UNCAC	Signed December 10, 2003 Ratified March 27, 2008
Last Updated		January 19, 2018

Region		Asia Pacific
Country		Taiwan
2017 CPI	Rank	29/180
	Score	63
The Law on Bribery	Bribery of Domestic Officials	<p>In Taiwan, anti-bribery practices are governed by the Anti-Corruption Act (the “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 was 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 or not the public official violates his or her duty. However, the public official will be subject to more severe penalties if he or she violates his or 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 or not 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: (1) Bribe: money or goods that can be valued by money could be regarded as a bribe; (2) 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 one 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, however, released in the last decade take a position divergent from this precedent, reasoning that a public servant is guilty of bribery whether or not 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, though the deposit procedure for Taiwan's ratification of the UNCAC has yet to be completed, the President has 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 2017, there have been several high-profile cases over bribes, including:</p> <ul style="list-style-type: none"> • Shih-Wen Yeh, the former director-general of the Construction and Planning Agency, Ministry of the Interior who asked for bribes of NT 2.6 million and received bribes of NT 1.6 million in exchange for helping Farglory Land Development to win a bid of public housing construction, was again found guilty of bribery and of illicit enrichment after the previous High Court judgment was remanded by the Supreme Court. He was sentenced to 7 1/2 years and 3 years respectively for bribery and illicit enrichment by the High Court on March 16, 2017; • Chi-Min Huang, the former director-general of the National Fire Agency, Ministry of the Interior, accepted bribes of over NT 250 million in exchange for rigging the procurement contract of rescue equipment and systems. He received a sentence of 18 years in prison and the total amount of the bribe was seized by the Taipei District Court on July 4, 2017; • Chih-Chien Hsu, the former deputy mayor of New Taipei City who received luxurious watches, gold bars and cash estimated to be worth NT 6.15 million, was charged for bribery and will face 10 years imprisonment according to the judgment by the High Court on December 7, 2017.
Participation in International Anti-corruption Conventions	OECD Convention	No
	UNCAC	No
Last Updated		January 18, 2018

Region		Europe
Country		Austria
2017 CPI	Rank	16/180
	Score	75
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 (the “StGB”) the relevant regulations with regard to corruption can be divided into 2 groups:</p> <ul style="list-style-type: none"> • <u>Abuse of public power</u> (section 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 only be committed by Austrian officials of executive bodies. • <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 merely given 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 5 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 5 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</p>

		<p>or an undue advantage to a public official (or arbitrator) with the intention of influencing a 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 (§ 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>In January 2013, the provisions with regard to commercial bribery were revised to increase the criminal sanctions (raised to up to 5 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:</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 5 years imprisonment). • Corporate entities: violations are punishable by fines of 15 to 20 percent of annual revenue. <p>Since 2013, action against commercial bribery can be taken by the Public Prosecutor’s Office for Economic Crime and Corruption (the “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>The Lobby and Interest Representation Transparency Act (Lobbying und Interessensvertretungs-Transparenz Gesetz; Federal Law Gazette I 64/2012) entered into force in January 2013. Under this act, 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> <p>Agreements with unregistered professional lobbyists and unregistered lobbying assignments will be deemed null and void.</p>
<p>Definitions</p>	<p>Government Employee</p>	<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;

		<ul style="list-style-type: none"> • 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 percent 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 only included if they fall into one of the above-listed categories.</p>
	<p>Gratification (Gifts/ Entertainments/ etc.)</p>	<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>
<p>Current Status</p>	<p>Enforcement Body</p>	<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>
	<p>Issues in Enforcement</p>	<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 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.
	<p>Recent Movement</p>	<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 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>OECD Convention</p>	<p>Yes</p>

Participation in International Anti-corruption Conventions	UNCAC	Signed December 10, 2003 Ratified January 11, 2006
Last Updated		January 19, 2018

Region		Europe
Country		Belgium
2017 CPI	Rank	16/180
	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 the “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 5 February 2016). <p><u>Applicable penalties</u>: 6 months to 5 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 3 years imprisonment and a fine • judges acting in their jurisdictional functions: penalty up to 10 years imprisonment and a fine
	Bribery of Foreign Officials	<p>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 5 February 2016).</p>
	Commercial Bribery	<p>Commercial bribery is governed by articles 504 <i>bis</i> (as amended by the law of 5 February 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>: 6 months to 2 years imprisonment and/or a fine.</p>
Definitions	Government Employee	<p><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.</p>

		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	<i>"Inadequacies include a lack of resources, a lack of coordination between investigation and prosecution, insufficient complaints mechanisms and whistleblower protection and a lack of awareness-raising. (...) The workload resulting from EU files is described as heavy and could hinder the fight against corruption at the national level."</i> (Progress Report 2011 of Transparency International) <i>"Measures should be introduced to meet the quantitative as well as the qualitative structural shortage of judicial resources for economic and financial delinquency. Specialist judges should be fully deployed to work only on this type of file. The judiciary should, in collaboration with the Federal Department of Justice, collect, maintain and publicise complete and accurate figures on corruption related crimes, as currently it is only possible to make estimates based on partial figures."</i> (Progress Report 2012 of Transparency International)
	Recent Movement	<i>"An important development, dating to 2008, was the creation of an official Expert Network in Corruption Matters ("Réseau d'expertise en matière de corruption"). One of its goals is to improve information exchange on a national and international level."</i> (Progress Report 2010 of Transparency International) Pursuant to the Council of Europe (GRECO) Report made in October 2016 on preventing corruption of members of Parliament, judges and prosecutors, Belgium has (partially) implemented only 4 of the 15 recommendations set forth in the Evaluation Report of the fourth Cycle (see GrecoRC4(2016)9). In late 2016, the National Contact Point in Belgium for the OECD Guidelines for Multinational Enterprises published the Guide for Conforming to the Rules on Combating Bribery of Foreign Public Officials in International Business Transactions. The content of the guide is available (in French or Dutch) at www.ocde-principesdirecteurs.fgov.be . An English version of the guide is also available in paper copy.
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		January 16, 2018

Region		Europe
Country		France
2017 CPI	Rank	23/180
	Score	70
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 (the “Criminal Code”) as well as the French Code of Criminal Procedure (the “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 “Service Central de Répression de la Corruption.” It is headed and represented by Charles Duchaine, a judge appointed by the President for a 6-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 control 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 only used in cases involving organized crime.</p> <ul style="list-style-type: none"> • The “Brigade nationale de lutte contre la corruption et la criminalité financière” has the authority to initiate investigations and handle corruption cases. • The “Procureur de la République financier” 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 5 of the 17 recommendations contained in the Evaluation report. As for the remaining recommendations, 10 of them had been partly implemented and 2 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 5 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>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 only applicable 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 5 to 10 years imprisonment as well as a fine from EUR 500,000 to EUR 1,000,000, depending on the offense. ○ <u>Specific sanctions for legal entities can be imposed</u>: fines up to 5 times the maximum amount of the fines for individuals, i.e., up to EUR 5,000,000 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), managing directors (gérants) and members of Société Anonyme boards of directors 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 “controlled” companies, the same obligations also apply to those subsidiaries and other “controlled” 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, notably regarding the business sector and geographic area in which the company pursues its activities;
- ✓ 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.

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.

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 (directeur général), managing director (gérant), or a member of a Société Anonyme board of directors fail to comply with his or 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.

Creation of a French Anti-corruption Agency

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 a Sanctions Commission that may impose penalties on noncompliant individuals and companies.

Reinforced Protection for Whistleblowers

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 (i) an international commitment duly ratified or approved by France, (ii) a unilateral act of an international organization adopted on the basis of such commitment, or (iii) 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 be implemented by entities starting January 1, 2018. In addition, the French National Commission for Data Protection and Liberties (the “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 2 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 percent 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 control 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.

		<p>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 percent 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.</p> <p>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:</p> <p>https://www.economie.gouv.fr/files/files/directions_services/afa/CJIP_English_version.pdf</p> <p>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.</p> <p>On October 30, 2017, the first French CJIP was entered into by a Swiss private bank and the <i>Parquet National Financier</i>, 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 only applies to legal entities.</p>
<p>Participation in International Anti-corruption Conventions</p>	<p>OECD Convention</p>	<p>Yes</p>
	<p>UNCAC</p>	<p>Signed October 31, 2003 Ratified July 11, 2005</p>
<p>Last Updated</p>		<p>February 18, 2018</p>

Region		Europe
Country		Germany
2017 CPI	Rank	12/180
	Score	81
The Law on Bribery	Bribery of Domestic Officials	<p>Germany does not have one specific “catch all” anti-corruption law. Instead, anti-corruption provisions are found in the German Criminal Code (the “StGB”) and the Administrative Offenses Act (the “OWiG”). Additionally, Germany has acceded to the 1995 Convention on the Protection of the European Communities’ Financial Interests by enacting the EU Anti-Bribery Law (the “EUBestG”) and it has also enacted the International Bribery Law (the “IntBestG”) and the International Criminal Court Law (the “IStGHGG”). At the domestic level bribery is defined 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 3 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 5 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 3 months to 5 years imprisonment. In less serious cases, the penalty shall be imprisonment not exceeding 2 years or a fine (Section 334 (1) StGB). • The same offense but in relation to a judge/ arbitrator shall be subject to 3 months to 5 years imprisonment (for judicial acts performed) or from 6 months to 5 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 3 years or a fine (Section 331(1) StGB). • A judge or arbitrator shall be subject to imprisonment not exceeding 5 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 6 months to 5 years imprisonment. In less serious cases the penalty shall be imprisonment not exceeding 3 years or a fine (Section 332 (1) StGB). • A judge or an arbitrator shall be subject to 1 to 10 years imprisonment for the same offense, but in relation to a judicial act. In less serious cases the penalty shall be from 6 months to 5 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 3 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: (a) civil servants or judges; (b) those who otherwise carry out public official functions; or (c) 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 (a) a public authority or agency, which performs public administrative services; or (b) 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.)	<p>“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”).</p>
Current Status	Enforcement Body	Public Prosecutor's offices (Staatsanwaltschaften), in cooperation with the Federal Criminal Office (Bundeskriminalamt).
	Issues in Enforcement	The StGB only provides for the punishment of natural persons. The OWiG provides for fines for directors of companies for failing to perform their duties, resulting in corruption, and fines for companies themselves, both up to EUR 1 million (or higher under certain circumstances) (Section 30 and Section 130 OWiG).
	Recent Movement	<p>According to the Annual Report 2015 of the German Federal Office of Criminal Investigation, the number of cases of corruption reported by police decreased from 20,263 in 2014 to 8,644 in 2015. This number decreased even further to 6,502 in 2016. These numbers are often connected to specific investigations and do not represent an actual trend.</p> <p>According to a study published by Ernst & Young, 43% of decision-makers in Germany believe that corruption is widespread in Germany. Until 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 (Antikorruptionsgesetz) became effective, introducing Sections 299 (a), 299 (b) StGB and amended 300 StGB, focusing on bribery in the healthcare sector. These sections have caused uncertainty in the healthcare 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	January 19, 2018
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Region		Europe
Country		Italy
2017 CPI	Rank	54/180
	Score	50
The Law on Bribery	Bribery of Domestic Officials	<p>Anti-corruption provisions are included in the Italian Criminal Code (the “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 (the “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> (the “National Anti-Corruption Authority”) which is granted investigative and remedial powers.</p> <p>Italy recently enacted a new anti-corruption law No. 69 of May 27, 2015 (the “New 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>Moreover, the New 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>Finally, the New Anti-Corruption Law 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>The overview below takes into account the provisions included in the ICC, the Anti-Corruption Law and the New Anti-Corruption Law.</p> <p><u>Passive bribery (receiving a bribe):</u></p> <ul style="list-style-type: none"> • <i>Improper Bribery</i>: When a public officer receives undue consideration (for himself/herself or a third party), or even only accepts 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 1 to 6 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. • <i>Proper Bribery</i>: When a public officer receives undue consideration for himself/herself or for a third party, or even only accepts 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 6 to 10 years imprisonment. • <i>Bribery in Judicial Acts</i>: If the bribery offense occurs in connection with the exercise of judicial functions and it is aimed at either favoring or disfavoring the accused, the criminal penalties vary between 6 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 8 years in case the wrongful sentence amounts 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 6 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 6 years to 10 years and 6 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 3 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 3 years. 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 (the “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. The list of criminal offenses that may trigger the liability of the company pursuant to the 231 Decree includes bribery and commercial bribery. If the company is found guilty, it may be subject to, *inter alia*, 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.

New measures to be adopted by public administration entities:

Each public administration is required to adopt specific measures to prevent the occurrence of bribery offenses. Such measures include, *inter alia*, (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.

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

		<p>resolution on the final National Anti-Corruption Plan. The plan sets forth general guidelines for implementing anti-corruption actions and enhancing transparency.</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, both in charge of 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: (i) EU public officers; and (ii) public officers of the EU Member States. With respect to foreign officers, only the briber (and not the public foreign officer) is held liable, unless the bribery offense has been committed for the purpose of (a) gaining undue benefit in international economic transactions; or (b) obtaining and/or maintaining an economic and/or financial activity.</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 3 years imprisonment), if the relevant company suffers damages as a consequence of the following conduct:</p> <p>(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;</p>

		<p>(ii) a corporate officer or employee exercising supervisory functions <u>is induced</u> 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</p> <p>(iii) a corporate officer or an employee exercising supervisory functions <u>induces</u> 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.</p>
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.)	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.
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	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 6 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.
	Recent Movement	Please see the “Commercial Bribery” and “Whistleblower protection” sections above.
Participation in International Anti-corruption Conventions	OECD Convention	Ratified on December 15, 2000
	UNCAC	Ratified on October 4, 2009
	Council of Europe Criminal Law and Civil Law Conventions on Corruption	<p>Ratified on June 13, 2013</p> <p>Entered into force on October 1, 2013</p>
Last Updated		January 18, 2018

Region		Europe
Country		The Netherlands
2017 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 (the “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 6 years or a maximum fine of the fifth category (now set at EUR 82,000) 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 6 years or a fine of the fifth category (now set at EUR 82,000).</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 9 years, or even 12 years in case 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 9 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 case of criminal liability of a corporate entity, the courts may impose maximum fines of up to 10 percent of a company’s annual turnover.</p>
	Bribery of Foreign Officials	<p>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.</p>
	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 4 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 percent 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 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	<p>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 US \$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.</p> <p>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.</p>
Participation in International Anti-corruption Conventions	OECD Convention	Yes
	UNCAC	Signed December 10, 2003 Ratified October 31, 2006
Last Updated		January 19, 2018

Region		Europe
Country		Poland
2017 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: 6 months to 8 years imprisonment (Art. 229 §1 Penal Code). • Substantial material benefit: 2 to 12 years imprisonment (Art. 229 §4 Penal Code). • Involves an act in violation of the law: 1 to 10 years imprisonment (Art. 229 §3 Penal Code). • Less significant case: fine, limitation of liberty or up to 2 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: 6 months to 8 years imprisonment (Art. 228 §1 Penal Code). • Substantial material benefit: 2 to 12 years imprisonment (Art. 228 §5 Penal Code). • Involves an act in violation of the law: 1 to 10 years imprisonment (Art. 228 §3 Penal Code). • Less significant case: fine, limitation of liberty or up to 2 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 5,000,000 with a limit of not more than 3 percent 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 2016, two entities were found guilty under the Act and fines between PLN 1,000 and PLN 1,500 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: 3 months to 5 years 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: 3 months to 5 years imprisonment (Art. 296 §1 Penal Code). Imminent danger of causing substantial damage to assets or business: up to 3 years imprisonment (Art. 296 §1a Penal Code). Material benefit: 6 months to 8 years imprisonment (Art. 296 §2 Penal Code). Significant material damage: 1 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: 3 months to 5 years imprisonment (Art. 296a §1 Penal Code). Significant damage: 6 months to 8 years 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 (Polish: <i>Centralne Biuro Antykorupcyjne, CBA</i>), (ii) the Central Investigation Office (Polish: <i>Centralne Biuro Śledcze, CBS</i>), and (iii) the Internal Security Agency (Polish: <i>Agencja Bezpieczeństwa Wewnętrznego, ABW</i>). 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 CBS (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	January 25, 2018
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Region		Europe
Country		Russia
2017 CPI	Rank	135/180
	Score	29
The Law on Bribery	Bribery of Domestic Officials	<p>The Russian Federation (the “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 Offences).</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 towards 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).

	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		January 9, 2018

Region		Europe
Country		Spain
2017 CPI	Rank	42/180
	Score	57
The Law on Bribery	Bribery of Domestic Officials	<p>Article 419 et seq. of the Penal 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.</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 et seq. of the Penal 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 (a) Spanish authorities and public servants; and (b) 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 et seq. of the Penal 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 Penal 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 Penal 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 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. • 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 Penal 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, experts, administrators, insolvency practitioners and receivers appointed by the court (Articles 24.2 and 423 of the Penal Code).</p> <p>“Foreign officials, authorities or civil servants” include: (a) any person who holds a legislative, administrative or judicial office in a member state of the European Union or any other foreign country; (b) 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; or (c) any officer or agent of the EU or of an international public organization (Article 427 of the Penal 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 and amended by Act 14/2003 of May 26 and by Act 24/2007 of October 6.</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>There have been no major prosecutions in relation to relatively new offenses, such as corruption in international commercial transactions (Article 286 ter of the Penal Code) and corruption in private transactions (Articles 286 bis of the Penal Code) as a result of the modification of certain corruption-related economic offenses and the recent enactment of the amendment to the Penal Code (Organic Act 1/2015 of March 3).</p> <p>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, as a result of the amendment of the Spanish Commercial Code, the Capital Companies Law and the Audit Law, corporate groups are now obliged to include in their consolidated annual report: a) a description of the policies implemented to prevent corruption practices and the result of such policies; b) the group’s corruption risks according to its activities; and c) how the group will manage those risks. If the corporate group has not implemented an anticorruption 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	<p>Organic Law 7/2012 of December 27 amended the Penal Code in relation to transparency and the fight against tax and social security fraud and included political parties and trade unions under the general regime for criminal liability of legal entities in order to overcome the perception of impunity for these two actors of the political sphere.</p> <p>Law 19/2013 of December 9 on transparency, access to public information and good governance also includes sanctions for breaching rules on conflicts of interest, including an obligation to pay compensation to the public treasury and disqualification from holding public office.</p> <p>Organic Law 1/2014 of March 13 on the judiciary has implemented Spanish courts’ universal jurisdiction to prosecute corruption in international commercial transactions and corruption in private transactions.</p>

		Organic Law 1/2015 of March 30 amends the Criminal Code. Royal Decree-Law 18/2017 of November 24 amends the Spanish Commercial Code, the Capital Companies Law and the Audit Law.
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 Penal Code were renumbered and renamed in 2004, and a 2010 amendment of the Penal Code further conformed the Penal Code to the OECD Convention.
	UNCAC	Signed September 16, 2005 Ratified June 19, 2006
Last Updated		January 8, 2018

Region		Europe
Country		United Kingdom
2017 CPI	Rank	8/180
	Score	82
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 (the “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 is 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 (the “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 only be guilty of the offense of bribing a foreign public official 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 (the “SFO”) and HMRC (UK tax authorities) can consent to the bringing of proceedings under the UKBA.</p>
	Issues in Enforcement	<p>Whilst 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>Deferred Prosecution Agreements (“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</p>

		<p>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.</p> <p>As a result of the DPA, Standard Bank agreed to financial orders of US \$25.2 million and was required to pay the Government of Tanzania a further US \$7 million in compensation. The bank has also agreed to pay the SFO’s reasonable costs of £330,000 in relation to the investigation and subsequent resolution of the DPA.</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>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 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. Whilst acknowledging the advancement 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 non-existent.</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		Saudi Arabia
2017 CPI	Rank	57/180
	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 (the “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 or 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 follow up on 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/Rewards:</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; • confiscation of any benefit derived from the offense; or • any or all of the foregoing penalties. <p>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 making the bribe and the mediator may be exempt from penalties under the CBL if they voluntarily inform the authorities before the crime is discovered by the authorities.</p> <p>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 mediator, 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 and up to half of any money 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 mediations 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 and 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, as noted below.

Definitions	Government Employee	<p>The term “public official” refers to:</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 and 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 paragraph.
	Gratification (Gifts/ Entertainments/ etc.)	<p>A promise or gift includes any advantage or benefit, of whatever type, name 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 following up on a transaction in any governmental department.</p>
Current Status	Enforcement Body	<p>The National Anti-Corruption Commission (the “NACC”) was established under the National Anti-Corruption Commission Law (the “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 (the “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 (a) to identify offenses and persons/entities involved in public corruption and (b) 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 only authorized 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 which 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 over 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 still 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.</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>February 8, 2018</p>

Region		Middle East
Country		United Arab Emirates
2017 CPI	Rank	21/180
	Score	71
The Law on Bribery	Bribery of Domestic Officials	<p>Although the UAE does not have a stand-alone anti-corruption statute, corruption (including, specifically, the bribery of domestic and foreign officials) is prohibited pursuant to the provisions of several federal and emirate-specific statutes, regulations, and codes of conduct, including: the Federal Penal Code (Federal Law No. 3 of 1987); 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 within the Federal Penal Code.</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 officer committing or omitting an act in violation of his/her duties: up to 5 years imprisonment (Federal Penal Code, Art. 237).</p> <ul style="list-style-type: none"> • <i>Dubai:</i> It is a crime to offer or give gratification to a Government Employee for an official act: up to 2 years imprisonment and/or a fine of up to AED 3,000 (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:</p> <ul style="list-style-type: none"> ○ <i>Violation of Duties:</i> Commit or omit an act in violation of his/her official duties (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. ○ <i>Activities Outside of Official Duties:</i> Commit or omit an act not a part of his/her official duties (Federal Penal Code, Art. 236) – for which Government Employees are subject to up to 5 years imprisonment. <ul style="list-style-type: none"> • <i>Dubai:</i> A public servant taking gratification for an official act is subject to up to 3 years imprisonment and/or a fine of up to AED 5,000 (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 besides a fine is imposed, the punishment as to the corporation shall be restricted to a fine of up to AED 500,000 pursuant to 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 by a foreign public official or employee of an international organization (Federal Penal Code, Arts. 234, 237).</p> <p>Prior to September 2016, the Federal Penal Code had not explicitly defined the terms “foreign public official” and “employee of an international organization.” Up to that point, Article 6 of the Code had simply provided that the various positions set out in Article 5 (summarized in the “Government Employee” section) shall be considered public officials regardless of whether the service is temporary, with or without pay, or voluntary. An</p>

		<p>amendment was made to Article 6 in September 2016, taking effect in October 2016, that added a sub-article defining the terms “foreign public official” and “employee of an international organization.” 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). 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). 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 5 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 could theoretically 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> <ol style="list-style-type: none"> (1) entrusted with public authority, or working in ministries and government departments; (2) members of judicial authorities in addition to chairmen and members of legislative, consultative and municipal councils; (3) members of armed forces; (4) entrusted by public authority for a specific job; (5) 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; (6) chairmen and members of boards of directors, managers and all other employees working in associations and public welfare institutions; and (7) employees of any security authority. <p>Employees of state-owned and state-controlled companies are also considered public service employees.</p> <p>The newly defined terms “foreign public official” and “employee of an international organization” are described in the “Bribery of Foreign Officials” section above.</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 of being given 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>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 (the “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 (the “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 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 for its efforts in the fight against corruption, particularly as compared to its neighbors in the region.</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 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 5 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. 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. In January 2016, a visa officer was jailed for one year and fined AED 150,000 for accepting AED 400,000 in bribes in exchange for illegally changing the visa statuses of a number of visitors. In March of that year, 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 in return for awarding a tender to a supplier of the oil company. Furthermore, in October 2016, a Sharjah police officer was jailed for three years and fined AED 3,000 for accepting a bribe of AED 3,000 to release a prisoner. 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. 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 (the “GDRFA”) was sentenced to three years in prison for seeking and accepting AED 30,000 worth of bribes from nine persons in return for unlawfully issuing them exit passes. The court ordered the defendant to pay AED 975,700 worth of fines and to return to GDREA the amount of AED 445,700 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 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 ten years in prison in late February 2018.</p>

	<p>Recent Movement</p>	<p>On April 18, 2016, Law No. 4 of 2016 established the Dubai Economic Security Centre (the “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 (the “INCOSAI”), hosted in Abu Dhabi. INCOSAI is the supreme body of the International Organisation of Supreme Audit Institutions (the “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 timeframe has been provided for such ratification.</p>
<p>Participation in International Anti-corruption Conventions</p>	<p>OECD Convention</p>	<p>No</p>
	<p>UNCAC</p>	<p>Signed August 10, 2005 Ratified February 22, 2006</p>
	<p>Arab Anti-Corruption Convention</p>	<p>Signed December 21, 2010</p>
<p>Last Updated</p>		<p>February 28, 2018</p>

Region		North America
Country		Canada
2017 CPI	Rank	8/180
	Score	82
The Law on Bribery	Bribery of Domestic Officials	<p>The Canadian Criminal Code (the “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 5 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 5 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 5 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 (the “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 5 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>

Current Status	Enforcement Body	<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 (the “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 Works and Government Services 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>
	Issues in Enforcement	<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 and has indicated that it has over 30 active proceedings.</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>
	Recent Movement	<p>In May 2014, Canada handed down the first sentence in a contested prosecution under the CFPOA. Following his conviction in August 2013, Nazir Karigar was sentenced to 3 years imprisonment for conspiracy to bribe a foreign public official (R. v. Karigar). 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 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. This case is currently before the Court of Quebec and the trial is expected to begin in September 2018.</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. Various follow-up proceedings have resulted from the work of the Charbonneau Commission. Among others, Michael Applebaum (former mayor of Montreal) was convicted on 8 of 14 charges involving fraud on the government, conspiracy, breach of trust and corruption in municipal affairs, and Gilles Vaillancourt (former mayor of Laval) pleaded guilty to charges of conspiracy, fraud and breach of trust. Applebaum was sentenced to 1 year in prison and 2 years of probation. Vaillancourt was sentenced to 6 years in prison and agreed to repay C\$8.5 million.</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	<p>Signed June 7, 1999</p> <p>Ratified June 1, 2000</p>
	OECD Convention	<p>Signed December 17, 1997</p> <p>Ratified December 17, 1998</p>

	UNCAC	Signed May 21, 2004 Ratified October 2, 2007
Last Updated		January 23, 2018

Region		North America
Country		Mexico
2017 CPI	Rank	135/180
	Score	29
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>) (the “Decree”). The purpose of the new 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 included newly enacted laws as well as amendments to existing laws and resulted in the establishment of the most far-reaching anti-corruption enforcement system to date in Mexico.</p> <p>Laws under the national anti-corruption system include:</p> <p>Federal Criminal Code (<i>Código Penal Federal</i>)</p> <p>General Law on Administrative Accountability (<i>Ley General de Responsabilidades Administrativas</i>)</p> <p>General Law of the National Anti-Corruption System (<i>Ley General del Sistema Nacional Anticorrupción</i>)</p> <p>Organic Law of the Administrative Justice Federal Court (<i>Ley Orgánica del Tribunal Federal de Justicia Administrativa</i>)</p> <p>Federal Accounting and the Accountability Law (<i>Ley de Fiscalización y Rendición de Cuentas de la Federación</i>)</p> <p>Organic Law of the Federal Administration (<i>Ley Orgánica de la Administración Pública Federal</i>)</p> <p>Statutory Law of the Attorney General’s Office (<i>Ley Orgánica de la Procuraduría General de la República</i>)</p> <p>Bribery is punishable under both criminal and administrative laws at the Federal and State level.</p> <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</p>

		<p>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 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> Effective from July 19, 2017, 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 \$8,060 to \$12,090 Mexican pesos; (ii) temporary disqualification from participation in public procurement for a period of time ranging from 3 months to 8 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 \$ 80,600 to \$ 120,900,000 Mexican pesos; (ii) temporary disqualification from participation in public procurement for a period of time ranging from 3 months to 10 years; (iii) suspension of the entity’s business activities for a period of time ranging from 3 months to 3 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 percent 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 percent provided that new information is brought to the authority’s attention by the offender and up to 30 percent 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 that incurs liability for such crime can be subject to a fine equivalent to 1000 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 (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 non-existent 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 or her own benefit or the benefit of a third party. For example, 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, which became effective on July 19, 2017. 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><i>“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:</i></p> <p><i>... 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.”</i></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>Beginning on July 19, 2017, under the General Law on Administrative Accountability, administrative liability was 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 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.

		<ul style="list-style-type: none"> • Congress has not yet fulfilled its duty to follow the guidelines and principles established in the Mexican Political Constitution.
	<p>Recent Movement</p>	<ul style="list-style-type: none"> • There have been several recent actions taken by the Secretariat of the Civil Service (the “SFP”) relating to anti-corruption. On July 18, 2017, the SFP announced that corporate entities must establish a Corporate Integrity Program (<i>Programa de Integridad Empresarial</i>) according to the model provided by the SFP containing recommendations, best practices and general guidelines for companies with respect to the program. • In October 2017, the SFP launched a system for registering complaints against authorities for irregularities. • On February 13, 2018, the SFP submitted to the OECD an anti-bribery protocol that aims to coordinate the participation of the federal authorities involved in the prevention, detection, investigation and sanctioning of international bribery. • The annual work plan of the SFP seeks to reinforce the National Anti-Corruption System by integrating the local anti-corruption systems and audits. It also seeks to standardize the procedures that are determined by the National Audit System (<i>Sistema Nacional de Fiscalización</i>). • Finally, the SFP is preparing new rulings that apply to acquisitions and public works in order to prevent corruption related to the technical qualifications required to be a public supplier. The ruling should be issued in 2018.
<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>March 7, 2018</p>

Region		North America
Country		United States of America
2017 CPI	Rank	16/180
	Score	75
The Law on Bribery	Bribery of Domestic Officials	<p>Bribery of domestic officials in the U.S. 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 on 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 US \$5,000 or more if such organization or agency receives more than US \$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. §§ 1346, 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. 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. A higher base level may also be applicable for elected public officials and public officials in high-level decision-making positions.</p> <p>U.S. domestic bribery laws also cover government officials. Article 2, Section 4 of the United States Constitution provides that: “[t]he 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 to -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. 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).</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 US \$250,000 and imprisonment for up to 5 years and companies are subject to a fine of up to US \$2 million. For each criminal violation of the accounting provisions, individuals are subject to a fine of up to US \$5 million and imprisonment for up to 20 years and companies are subject to a fine of up to \$25 million. 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 US \$16,000 per violation of the anti-bribery provisions of the FCPA. For violations of the accounting provisions, individuals and companies are subject to a civil penalty not to exceed the greater of the (a) specific gain to the individual or company as a result of the violations or (b) a specified dollar limitation. The specific limitation depends on the egregiousness of the violation, which ranges from \$7,500 to \$150,000 for an individual and \$75,000 and \$725,000 for a company.</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 (the “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 and 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, Section 641.30 of 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. Violations of this statute are punishable by imprisonment for up to 3 years depending on the amount of the bribe. Other state commercial bribery statutes include: Del. Code Ann. tit. 11, § 881; Fla. Stat. § 838.16; 38 Ill. Comp. Stat. 5/29A-1; Mass. Gen. Laws ch. 271 § 39; N.J. Stat. Ann. § 2C:21-10; N.Y. Penal Code § 180.00; Tex. Penal Code Ann. § 32.43; etc.</p> <p>At the federal level, the Travel Act prohibits commercial bribery occurring across state lines. Under the Travel Act (18 U.S.C. § 1952), 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,</p>

		<p>establishment or carrying on, of any unlawful activity.” “[U]nlawful activity” is defined broadly to include “extortion [and] bribery [...] in violation of the laws of the state in which committed[.]” 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. 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)(1), (2)). In <i>Dixon v. U.S.</i>, 465 U.S. 482 (1984), 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.” 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.”</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 on behalf of any of the foregoing (15 U.S.C. §§ 78dd-1(f)(1)(A), 78dd-2(h)(2)(A) and 78dd-3(f)(2)(A)). “Instrumentality” has been defined broadly to include an “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)).</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 state capacities” (<i>See, e.g., U.S. v. Brumley</i>, 116 F.3d 728, 736 (5th Cir. 1997)).</p>
	<p>Official Act</p>	<p>The 2016 Supreme Court case <i>McDonnell v. U.S.</i>, 136 S. Ct. 2355 (2016) clarified the definition of “official act” under the federal bribery statute, 18 U.S.C. § 201, which 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 official act.” <i>McDonnell</i> held that an “official act” is a decision or action on a “question, matter, cause, suit, proceeding or controversy”; that a question or matter must involve a formal exercise of governmental power, and must also be something specific and focused that is “pending” or “may by law be brought” before a public official. 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. The Court held that “setting up a meeting, talking to another official, or organizing an event, without more, does not fit that definition of an official act.”</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 <i>quid pro quo</i>), 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</p>

		<p>provided with the expectation of a <i>quid pro quo</i> 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 U.S. Securities and Exchange Commission (the “SEC”) both enforce the FCPA. The DOJ is responsible for criminal enforcement of the FCPA’s anti-bribery and accounting provisions. The DOJ has jurisdiction over “issuers,” “persons,” and “domestic concerns,” as defined in the statute. The SEC is responsible for civil enforcement of the FCPA’s anti-bribery and accounting provisions. The SEC has jurisdiction over “issuers,” which 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. 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>	<p>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. SEC</i> 137 S.Ct 1635 (2017), 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. 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.” 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.</p>
	<p>Recent Movement</p>	<ul style="list-style-type: none"> • FCPA Corporate Enforcement Policy: On November 29, 2017, Deputy Attorney General Rod Rosenstein announced a revised “FCPA Corporate Enforcement Policy” that formalized aspects of the Pilot Program to be incorporated into the United States Attorneys’ Manual with some key changes. First, the policy creates a presumption that the DOJ will resolve the matter through a declination when a corporation meets the DOJ’s expectations with respect to a voluntary self-disclosure, fully cooperates, and takes appropriate remedial steps. However, the presumption is inapplicable when there are “aggravating circumstances” or when the company is a repeat offender. Even in such cases, however, if the company has otherwise voluntarily disclosed, cooperated and taken remedial steps, the DOJ will recommend a 50 percent reduction off the low end of the U.S. Federal Sentencing Guidelines fine range. Second, the new policy provides additional details regarding how the DOJ evaluates an appropriate anti-corruption compliance program. The policy lists eight core elements of an effective program which include allocation of adequate resources to compliance activities and fostering a culture of compliance. Third, under the new policy, the DOJ will publicize all FCPA declinations and will release declination letters. • Individual Enforcement: FCPA enforcement against individuals increased in 2017, consistent with recent DOJ and SEC initiatives to focus on individual accountability. <p>In a speech, the Deputy Attorney General stated there would be a continued focus on prosecuting individuals. Additionally, the Co-Director of the SEC’s Enforcement Division affirmed the SEC’s commitment to hold individuals accountable and stated that the SEC “considers individual liability in every case it investigates.”</p> • Coordination with Foreign Authorities: The DOJ has recently coordinated with foreign authorities in the Netherlands, Switzerland, the UK, Singapore and Brazil in the investigation and resolution of four major global anti-corruption cases, showcasing 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.

Participation in International Anti-corruption Conventions	OAS Convention	Signed June 2, 1996 Ratified September 15, 2000
	OECD Convention	Yes
	UNCAC	Signed December 9, 2003 Ratified October 30, 2006
Last Updated		March 31, 2018

Region		South America
Country		Argentina
2017 CPI	Rank	85/180
	Score	39
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 (the “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 1 to 6 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 1 month to 1 year 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 1 to 6 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 1 month to 2 years imprisonment and 1 to 6 years disqualification from office (Section 259, Penal Code). • Any person who intermediates an unlawful payment is subject to 1 to 6 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</p>

		<p>person making the bribe may be subject to 2 to 6 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 4 to 12 years imprisonment and lifetime disqualification (Section 257, Penal Code).</p> <p>Corporate liability: 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, the “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 (i) self-reports a corrupt act, (ii) demonstrates the existence of a meaningful compliance program and (iii) 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. What qualifies as an “adequate” compliance program is not currently clear and will be defined by regulations and case law.</p> <p>The Corporate Liability Act establishes that, at a minimum, a compliance program should include (a) a written code of ethics or code of conduct, (b) specific rules and procedures for preventing unlawful acts in any interaction with the government or public officials and (c) 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 1 to 6 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 benefit in exchange for performing credit, financial or market transactions. Violators may be punished by imprisonment from 1 to 6 years and disqualification from their licensed activity for up to 6 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 1 month to 6 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: (1) official protocol recognitions from foreign governments, international organizations or non-profit organizations, given in accordance with the relevant laws and official custom; (2) travel and lodging expenses related to participation in academic or cultural activities, provided that they are not incompatible with the office or special laws; (3) gifts or benefits that, given their small pecuniary value, could not reasonably be deemed a means to influence the public official’s will; and (4) 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 (the “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) procures 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 \$4,000 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 (the “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 (the “OA”) and the National Office for Administrative Investigations of the Prosecutor-General’s Office (the “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. During 2017 there was an unprecedented flood of government corruption cases, leading to the pre-trial arrest of many former officials, who had enjoyed impunity until the change in government.
	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

		<p>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.</p> <ul style="list-style-type: none"> 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. <p>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.</p> <p>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.</p> <p>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 4 to 10 years.</p> <ul style="list-style-type: none"> In October 2016, the Minister of Justice sponsored legislation to reform the Criminal Procedural Code to regulate undercover agents and for the investigation of federal corruption crimes. The bill has not yet been considered by congress. In June 2016, the House of Delegates considered and approved a bill (<i>La Ley de Extinción del Dominio</i> or the “Seizure and Restitution Act”) allowing the government to seize ill-gotten gains of former public officials and repatriate those gains to the State. The Senate did not debate the bill during 2017 but it is expected to be on the legislative agenda for 2018. The OA has dramatically increased its role and standing as an interested party (<i>querellante</i>) 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 <i>Procurador General del Tesoro</i>, 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. The government has announced work on a new national law on public integrity which, among other functions, will create an independent OA.
<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>

	UNCAC	Signed December 10, 2003 Ratified August 28, 2006
Last Updated		January 18, 2018

Region		South America
Country		Brazil
2017 CPI	Rank	96/180
	Score	37
The Law on Bribery	Bribery of Domestic Officials	<p>According to the Brazilian Criminal Code, Law No. 2,848 of December 7, 1940 (the “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: 2 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: 2 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: 2 to 8 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: 2 to 5 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 only liable 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: 1 to 8 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: 2 to 5 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 1 to 4 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 (the “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 (the “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 percent to 20 percent of a company’s gross revenue in the fiscal year prior to the start of the investigation (or from R\$6,000 to R\$60,000,000, if the gross revenue criterion is not available). Fines will be limited to the lowest amount between (i) 20 percent 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 percent if the violation took place over a long period of time; (ii) 1 to 2.5 percent if management of the company was aware of the violations; (iii) 1 to 4 percent if the violation caused the suspension of public services or involved a contract with a public organ; (iv) 1 percent if company netted profits and had a positive solvency rate in the fiscal year before the investigation; (v) 5 percent if the company is a reoccurring offender and committed a similar violation within 5 years of the publication date of the last administrative judgment; and (vi) 1 to 5 percent according to the amount of contracts actually or intended to be entered into with governmental authorities (ranging from 1 percent for contracts above R\$1,500,000 to 5 percent for contracts above R\$1,000,000,000).</p> <p>Violating companies can benefit from the following reductions in the ultimate fine: (i) 1 percent if the violation was not completed; (ii) 1.5 percent if the company remedies the damages caused; (iii) 1 to 1.5 percent if the company collaborates with the investigation, regardless of the execution of leniency agreements; (iv) 2 percent if the company is the first to report the violations before the commencement of the proceeding; and (v) 1 to 4 percent if the company has an effective compliance program in accordance with the factors set forth in the Decree.</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</p>

		<p>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 3 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 Prosecutor’s Office (<i>Ministério Público Federal</i>) drafted a bill of law (PL 4850/2016) known as the “ten 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>Fundação Getúlio Vargas 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 is expected to be 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 “Operação Lava Jato” or “Petrolão,” 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 multi-jurisdictional 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. 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 US \$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.</p> <p>As a consequence of <i>Lava Jato</i>, 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</p>

		<p>seeking damages in a federal court in Manhattan, New York, on behalf of holders of Eletrobras’ American depositary receipts (“ADRs”). The case is currently ongoing.</p> <p>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, “<i>Operação Zelotes</i>,” 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.</p> <p><i>Lava Jato</i> has informally acquired the status of an institution in Brazil. Since its inception, task forces have managed to prosecute and arrest prominent politicians. Cooperation efforts between Brazilian and international law enforcement authorities have expanded the prosecution of wrongdoing in other countries as well. In Brazil, President Michel Temer has been indicted twice for corruption by the <i>Ministério Público Federal</i>. However, the House of Representatives passed a motion to suspend the indictments until President Temer leaves office in late 2018.</p> <p>In 2018, Keppel Offshore & Marine (Singapore’s largest oil rig construction company) was fined US \$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 <i>Lava Jato</i>) to make payments to Petrobras officials and politicians of the Workers’ Party in Brazil.</p> <p>In addition, in early 2018, Petrobras announced that it has agreed to pay US \$2.95 billion to settle a U.S. class action lawsuit related to corruption. The deal intends to resolve all pending and prospective claims by purchasers of Petrobras securities traded in U.S. markets. The settlement will still need to be approved by the U.S. District Court for the Southern District of New York.</p> <p>Finally, on January 24, 2018, an appeals court upheld the corruption and money laundering conviction of former President Luiz Inácio Lula da Silva, one of Brazil’s most popular presidents, and increased his sentence to 12 years and one month.</p>
<p>Participation in International Anti-corruption Conventions</p>	<p>OAS Convention</p>	<p>Signed March 29, 1996 Ratified July 10, 2002</p>
	<p>OECD Convention</p>	<p>Yes</p>
	<p>UNCAC</p>	<p>Signed December 9, 2003 Ratified January 31, 2006</p>
<p>Last Updated</p>		<p>February 1, 2018</p>

Region		South America
Country		Chile
2017 CPI	Rank	26/180
	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> Offering or agreeing to offer an economic benefit to a public official in return for the performance or omission of an act within the authority of the official's role (whether in line with or in conflict with his/her duties): 2 months to 3 years imprisonment and fines matching the type of performance requested (50 to 100 percent of the offered/agreed benefit for performance if in line with the official's duty; 100 to 200 percent if in conflict and up to 300 percent if the bribe is offered for the performance of certain crimes) (Criminal Code art. 250).</p> <p><u>Receiving a bribe:</u> It is a crime for a public official to request, accept or agree to accept a bribe for himself/herself or for third parties:</p> <ul style="list-style-type: none"> • in line with duty: a fee greater than what is appropriate given his/her office, or an economic benefit in return for the performance of an act in line with his/her duty: 2 to 18 months imprisonment, 2 months to 3 years suspension from office and a fine of 50 to 100 percent of the bribe (Criminal Code art. 248). • in conflict with duty: an economic benefit in consideration for the performance or omission of an act in contravention of his/her official duties, or for influencing another public employee in order to obtain from him/her a decision that can benefit a third party: 18 months to 3 years imprisonment, absolute or special temporary impediments to holding public office, and a fine of 100 to 200 percent of the bribe (Criminal Code art. 248-bis). • for the commission of certain crimes: an economic benefit in consideration for the commission of certain corruption crimes: 18 months to 3 years, unless the committed crime has a higher penalty, special perpetual and absolute, temporary or perpetual impediments to holding public office, and a fine of 100 to 300 percent of the bribe (Criminal Code art. 249). <p><u>Corporate liability:</u> Law N° 20.393 on Criminal Liability of Corporations (in force since December 2, 2009) establishes corporate criminal liability for money laundering, terrorism financing and bribery of a national or foreign public officer.</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 state agencies, and even the dissolution of the corporation or the cancellation of its juridical status (this last sanction only applies for a money laundering crime committed by agents or employees of the corporation, but not for national or international bribery nor for terrorism financing). 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 gift. Chilean courts also have jurisdiction in cases of bribery of a foreign public official</p>

		<p>committed abroad by a Chilean national or a foreigner with 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 art. 251-bis 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 18 months to 5 years imprisonment, restrictions on holding public office and a fine ranging from 100 to 200 percent 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 (one tax unit is currently equivalent to approximately US \$65).</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 a temporary or permanent prohibition from entering into governmental contracts, loss or prohibition of governmental benefits, fines ranging from 200 to 10,000 monthly tax units or disgorgement, etc.</p>
	Commercial Bribery	<p>Chile does not have laws that prohibit commercial bribery. However, in certain circumstances bribery acts may allow for claiming damages under general tort law or under Law N° 20.169 on Unfair Competition (e.g., bribes to suppliers of a competitor to stop providing services or to an employee of a competitor).</p>
Definitions	Government Employee	<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>
	Gratification (Gifts/ Entertainments/ etc.)	<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. However, administrative law allows for gifts that are consistent with customary courtesy, good manners and protocols.</p>
Current Status	Enforcement Body	<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 (established May 2003). In such proceedings the State Defence 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>
	Issues in Enforcement	<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. No case has gone to trial nor has the adequacy of compliance programs, which may exempt companies from liability, been tested in that context. • Low penalties.
	Recent Movement	<p>In reaction to some high profile alleged corruption cases (particularly cases involving irregular funding of political campaigns) a bill has been discussed in Congress over the past several years, proposing important amendments to anti-corruption regulation, including the increase of penalties for bribery and other corruption crimes, amendments to provisions related to bribery of foreign governmental officials, following recent recommendations issued by the OECD, and the regulation and punishment of commercial bribery, which so</p>

		far is not considered a crime under Chilean law. The bill is expected to be approved within the next few months and should enter into force in the first half of 2018.
Participation in International Anti-corruption Conventions	OAS Convention	Ratified October 27, 1998
	OECD Convention	Yes
	UNCAC	Ratified September 13, 2006
Last Updated		January 22, 2018

Region		South America
Country		Colombia
2017 CPI	Rank	96/180
	Score	37
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 (the “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 US \$53,878,000) 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 1 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 5 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 9 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 1 year; and (iv) the legal entity may not receive any incentive or subsidy from the government for a period of 5 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 4 to 8 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 4 to 8 years and fines, for a director, manager, employee or advisor of any corporation, association or foundation to</p>

		<p>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 6 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 has the highest responsibility for overseeing the discipline of public servants. The Judiciary Counsel is responsible for investigating and sanctioning judicial servants. The Attorney General investigates all offenses under the Criminal Code and prosecutes individuals before Criminal Courts. The General Comptroller's office has the responsibility for overseeing management of public resources. The foregoing are independent entities that have the power to initiate investigations.</p> <p>The Superintendence of Companies has the responsibility for investigating and imposing sanctions on legal entities that bribe foreign officials in cross-border transactions. Pursuant to the recently enacted Law 1778 of 2016, the Attorney General and the Superintendence of Companies may enter into agreements to exchange information between such agencies, to gather evidence and to coordinate the investigations at any stage of the proceedings.</p> <p>The Transparency Agency, which reports to the President of Colombia, plays a different role in policing corruption. Among its different roles, the Transparency Agency designs policies against corruption (which it does not enact or issue), 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 is the entity in charge of adopting an annual strategy for the development of transparency, efficiency and morality applicable to governmental entities. As an additional effort, Regional Morality Commissions are responsible for implementing and coordinating the actions of government-owned entities to prevent and investigate corruption.</p> <p>The National Citizen Commission of the Fight Against Corruption is responsible for making recommendations, 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, creating a considerable backlog and inefficiency in investigations (this applies to both investigators and judges). • A lack of funding and strong political influences at the regional level makes regional investigations more difficult. • No whistleblower protection policies or witness protection programs. <ul style="list-style-type: none"> a. 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 US \$2,593 and US \$29,939), 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). • Lack of regulation regarding lobbying practices. • The lack of regulations relating to self-reporting limits the ability of government and enforcement authorities to (1) identify corruption and bribery crimes and (2) enforce anti-corruption laws. • The Colombian 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. • Lack of regulation regarding donations.
	<p>Recent Movement</p>	<p>In October 2017, the President of Colombia issued a regulation (<i>Decreto 1686 de 2017</i>) concerning the structure and functions of the Regional Morality Commissions, created under the Anti-Corruption Statute. In particular, the regulation sets forth the following general functions for these commissions: (a) coordinate anticorruption enforcement in their jurisdictions, (b) promote risk management in public procurement, (c) hear complaints filed by the public and (d) prepare and publish biannual reports on the advancement of anticorruption enforcement in their jurisdictions.</p>
<p>Participation in International Anti-corruption Conventions</p>	<p>OAS Convention</p>	<p>Signed March 29, 1996 Ratified November 25, 1998</p>
	<p>OECD Convention</p>	<p>Signed and ratified November 20, 2012 Entered into force January 19, 2013</p>
	<p>UNCAC</p>	<p>Signed December 10, 2003 Ratified October 27, 2006</p>
	<p>EU and Colombian Anti-Corruption Convention</p>	<p>Signed September 2013</p>

Last Updated	January 11, 2018
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Region		South America
Country		Ecuador
2017 CPI	Rank	117/180
	Score	32
The Law on Bribery	Bribery of Domestic Officials	<p>Under Ecuador’s <i>Código Orgánico Integral Penal</i> (2014), known as the “COIP,” both the giving and receiving of bribes to or by domestic officials is prohibited. The giver as well as the receiver may be subject to liability.</p> <p><u>Offering a bribe:</u> It is a crime for an individual to offer, give or promise to give a public servant or other state official a donation, gift, promise, advantage or undue economic benefit or any other asset to make, omit, facilitate, postpone or condition any matters related to the recipient’s role as a civil servant or to commit a crime (Article 280 <i>Cohecho</i> – COIP).</p> <p><u>Receiving a bribe:</u> It is a crime for public servants or other state officials to receive or accept for themselves, or on behalf of a third party, any economic or other benefit for the purposes of facilitating or conditioning any matter related to their function as a public servant (Article 280 <i>Cohecho</i>). Furthermore, it is also a crime for such individuals to obtain unjustified earnings on behalf of themselves or third parties. In such cases, illicit enrichment is understood to cover not only the taking of money and assets but also the cancellation or forgiveness of any debt (Article 279 <i>Enriquecimiento ilícito</i> – COIP).</p> <p><u>Demanding a bribe:</u> It is a crime for a public servant who, exercising a public function, abuses his/her power, directly or through third parties, demanding rights, quotas, contributions, income, interest, salaries or gratuities not due. If such conduct takes place through violence or threats, the sanction is more severe (Art. 281 <i>Concusión</i> – COIP).</p> <p><u>Fronting or Figureheading:</u> It is a crime to present as personal property those goods obtained by a current or former public servant through acts or corruption or by anyone through private unjustified enrichment (Art. 289 – COIP - Testaferrismo).</p> <p><u>Extortion:</u> It is a crime for public officials or other state officials to use or to attempt to use their position or relationships to exercise influence over another public servant to obtain a favorable result on behalf of themselves or third parties (Article 285 <i>Tráfico de Influencias</i>; Article 286 <i>Oferta de realizar tráfico de influencias</i> and Article 294 <i>Abuso de Facultades</i> – COIP).</p>
	Bribery of Foreign Officials	Ecuador does not have laws that prohibit the bribery of foreign public officials.
	Commercial Bribery	Ecuador has an antitrust law (Ley Orgánica de Control de Poder de Mercado “LORCPM”) which contains regulations that prohibit any corrupt dealings that would secure an unfair advantage over competitors and/or distort the market.
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.)	Gifts and hospitality do not constitute bribery under the COIP, unless there is a corrupt purpose attached to the gift (a <i>quid pro quo</i>). However, the receipt of a gift or hospitality of any value by a public servant constitutes a disciplinary violation. 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	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

		<p>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 a technical body in charge of the supervision and disposition of public resources and any legal person under private law that administers public resources. 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>
	Issues in Enforcement	<ul style="list-style-type: none"> Judicial processes continue to be relatively slow and subject to political influences, though there is a general perception of greater independence since the change of government in May 2017. Despite the persistence of corruption scandals, according to the Latinobarometro 2017, Ecuador ranks ninth in the region in terms of corruption and is the country with the most optimism with respect to the fight against corruption, with 55% of respondents reporting a perception of progress.
	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 6 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.
Participation in International Anti-Corruption Conventions	OAS Convention	<p>Signed March 29, 1996</p> <p>Ratified May 26, 1997</p>
	OECD Anti – Bribery Convention	No
	United Nations Convention against Transnational Organized Crime	<p>Signed December 13, 2000</p> <p>Ratified September 17, 2002</p>
	United Nations Convention Against Corruption (UNCAC)	<p>Signed December 10, 2003</p> <p>Ratified September 15, 2005</p>

Last Updated	February 28, 2018
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Region		South America
Country		Uruguay
2017 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></p> <ul style="list-style-type: none"> 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><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 6 years imprisonment, a ban from holding public functions for a period of 2 to 6 years, and a penalty ranging from 50 UR (approximately US \$1,405) to 10,000 UR (approximately US \$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 3 months to 3 years imprisonment, a ban from holding public functions for a period of 2 to 4 years, and a penalty fee ranging from 10 UR (approximately US \$281) to 5,000 UR (approximately US \$14,057) (Art. 157 Criminal Code). <p>The Criminal Code also includes a special provision against certain practices of “middle men” or “lobbyists” using a real or alleged influence on public officials. The crime of “trafficking in influence” 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 3 months to 3 years 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 the execution of international trade. Violations are subject to 3 months to 3 years 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: (a) official protocol recognitions; (b) expenses related to participation in academic conferences or cultural activities; (c) 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	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. 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 only applies for a selected group of high-profile public officials (Arts. 10 and 11 of the Act 17.060). 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.
	Issues in Enforcement	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 does not mean that the Board can issue mandatory decisions. Uruguayan law does not provide specific protections for witnesses or whistleblowers. It also does not include provisions that incentivize the reporting of suspicious cases or cooperation with enforcement bodies. There is not an adequate institutional structure to efficiently prosecute minor corruption activities. 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 Government and its agencies to perform certain commercial activities and develop infrastructure projects, mainly in the transportation and energy sectors. 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. Uruguay does not have laws that regulate commercial bribery.

	Recent Movement	<p>On December 18, 2017, the former President of the board of the “Banco de la República,” the Uruguayan public commercial banking institution, was convicted by the Supreme Court of Justice for the unlawful use of his public powers – under Section 162 of the Criminal Code – for certain of his 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 Supreme Court of Justice absolved the former Minister of Finance who had been convicted by the Court of Organized Crime for the same criminal offense for his alleged participation in the scheme.</p> <p>During 2017, the Board of Transparency and Public Ethics, despite its institutional and budget shortcomings, displayed a more active and visible role fighting corruption, including by promoting investigations in connection with a case that eventually led to the resignation of the Uruguayan Vice President 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 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 heavens 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>
Participation in International Anti-corruption Conventions	OAS Convention	Ratified October 1998 (Act. 17.006)
	OECD Convention	No
	UNCAC	Ratified December 2006 (Act. 18.056)
Last Updated	January 24, 2018	

Region		South America
Country		Venezuela
2017 CPI	Rank	169/180
	Score	18
The Law on Bribery	Bribery of Domestic Officials	<p>The Law against Corruption of 2014 (the “Anti-Corruption Law”) is the primary source of law that criminalizes the bribery of domestic officials. Punishment applies to both the offeror and the receiver of a bribe.</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 1 to 4 years of imprisonment and a fine of up to 50 percent 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 the performance of a delay or an omission contrary to his/her duties: punishable by 3 to 7 of years imprisonment and a fine of up to 50 percent 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 5 to 10 years of imprisonment if the court decision resulted in a judgment of over 6 months in prison (Anti-Corruption Law art. 64).</p> <p><u>Attempted bribery</u>: It is a crime when someone tries to bribe a public official but is unsuccessful in doing so: punishable by 6 months to 2 years of imprisonment (if the bribe pursued the performance of the official’s duties), or half the penalty assigned for bribery in conflict with duties pursuant to article 64 (if the bribe pursued the performance of a delay or an omission contrary to the official’s duties) (Anti-Corruption Law art. 65).</p> <p><u>Corporate liability</u>: Through the application of the Venezuelan Law against Organized Crime and Terrorism Financing (enacted on April 30, 2012), a corporation may be held accountable for the offenses listed under this 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	The act of promising or actually giving a benefit or undue profit to a foreign official in exchange for the performance or omission of his/her duties is punishable by 6 to 12 years of 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.
	Commercial Bribery	Venezuela criminalizes bribery between private parties, imposing a sanction of 2 to 6 years of imprisonment to the parties involved under article 47 of the Anti-Corruption Law, or 4 to 6 years of imprisonment under article 63 of the Organic Law on Fair Prices. Commercial bribery could also be deemed an administrative violation, with the wrongdoer subject to fines based on the value of the transaction (Anti-Monopoly Law, art. 17).
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 organ or body with the authority to exercise a public power; • any organ or body that is established by the Republic, states, territories or federal dependencies or metropolitan districts and municipalities; • any organ or body, including companies, civil associations and non-profit foundations, where at least 50 percent of the share capital is owned by the government or state entities; • all public universities; and • the Venezuelan Central Bank.

	Gratification (Gifts/ Entertainments/ etc.)	It is unclear under the Anti-Corruption Law what can be deemed an undue gratification that therefore constitutes corruption. The Anti-Corruption Law refers generally to undue profits, donations, benefits and even the mere 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. Additionally, the receipt of a gift could entail a violation of the Code of Ethics for a Public Official and therefore result in disciplinary penalties.
Current Status	Enforcement Body	The General Comptroller's Office (the "GCO") monitors government revenues and expenses, and the General Public Prosecutor's Office (the "GPPO") is responsible for handling criminal cases (including corruption) and has the power to designate specialized authorities to investigate. 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.
	Issues in Enforcement	<ul style="list-style-type: none"> • Enforcement bodies such as the GCO and the GPPO may be influenced by politics. There is the perception that political factors impact investigations (e.g., investigations of potential candidates that may cause their political disqualification). • The perception of a lack of real commitment to fight corruption. • Mistrust of the justice system. • The perception of extended corruption in both the public and the private sector. • An increasing rate of impunity. According to the GPPO and NGOs, the impunity rate in prosecutions exceeds 90 percent. • Both the GCO and the GPPO lack institutional resources and funding. • Despite the above weaknesses, there have also been prominent corruption investigations and convictions in recent months. On November 30, 2017, Tarek William Saab, the recently appointed General Public Prosecutor, conducted the investigation and detention of Eulogio del Pino and Nelson Martínez, the former Oil and Energy Minister and President of PDVSA (Venezuela's main public oil company), on charges of intentional graft and money laundering. Furthermore, on December 15, 2017, Manuel "Coco" Sosa, director of the oil contractor Petropiar, S.A., was charged and convicted of intentional graft, concertation of a public official with a contractor and criminal association.
	Recent Movement	There have not been any recent announcements from Venezuelan officials regarding new anti-corruption legislation or regulations.
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		January 5, 2018

Region		South Asia
Country		India
2017 CPI	Rank	81/180
	Score	40
The Law on Bribery	Bribery of Domestic Officials	<p>The primary anti-corruption law in India is the Prevention of Corruption Act, 1988 (the “PCA”) that consolidated all prior laws dealing with corruption and the Lokpal and Lokayuktas Act, 2013 (the “LLA”) which came into force on January 16, 2014. An amendment to the PCA is currently under consideration by the Parliament. According to the Upper House’s Select Committee Report, the bill includes provisions criminalizing the act of giving a bribe, creating criminal liability of corporates for bribing a public servant, removing the requirement of prior approval by the government for investigations and ensuring the timely completion of trials.</p> <p>Other legislation includes the Prevention of Money Laundering Act, 2002 that provides for confiscation of property derived from, or involved in, money laundering, and the Benami Transaction (Prohibition) Act, 1988 (the “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 3 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 indirectly criminalizes the act of offering a bribe; a person may be punished under the abetment provision of the PCA for offering a bribe to a public servant. A person who abets the offense of receiving a bribe (as described in (i) through (v) below) is punishable with imprisonment and a fine (PCA §12). This rule is subject to an exception: A witness cannot be prosecuted for testifying in a criminal proceeding against a public servant that he/she offered a bribe to (PCA §24).</p> <p><u>Receiving a bribe:</u> The PCA criminalizes the following acts: (i) taking of gratification by a public servant in respect of an official act other than legal remuneration; (ii) taking gratification by corrupt legal means to influence a public servant; (iii) taking gratification for the exercise of personal influence over a public servant; (iv) abetment of acts specified in (ii) or (iii) by a public servant; (v) for a public servant, obtaining anything of value, without consideration from any person concerned in any proceeding or business transacted or about to be transacted by such public servant; and (vi) criminal misconduct by a public servant (PCA §§ 7, 8, 9, 10, 11 and 13).</p> <p><u>Corporate liability:</u> The PCA does not contain a provision expressly holding corporations liable for an offense committed under the PCA. The Supreme Court of India, however, has held that corporations can be prosecuted for criminal offenses under the PCA (C.B.I. v. M/s. Blue Sky Tie-up Limited & Ors. CrI. Appeal No(s). 950 of 2004).</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 Officials and Officials of Public International Organizations Bill, 2011 was introduced in

		<p>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>
	<p>Commercial Bribery</p>	<p>There is currently no law in India prohibiting private commercial bribery. 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>
<p>Definitions</p>	<p>Government Employee</p>	<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 (C.B.I. v. Ramesh Gelli & Ors).</p> <p>“Public servant” under the LLA has a wider scope than 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; any Group ‘A’ or Group ‘B’ officer equivalent or above from amongst the public servants defined under the PCA when serving, or who has served, in connection with the affairs of the union; any person who is or has been 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; any person who is or has been 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 Government and the annual income of which exceeds such amount as the Central Government may, by notification, specify; any person who is or has been 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>
	<p>Gratification (Gifts/ Entertainments/ etc.)</p>	<p>The word “gratification” is not restricted to pecuniary gratification (PCA §7).</p> <p>“Legal remuneration” is not restricted to remuneration which a public servant can lawfully demand, but includes all remuneration which he/she is permitted to accept by the government or the organization which he/she serves (PCA §7).</p> <p>“A motive or reward for doing” refers to the concept where a person receives a gratification as a motive or reward for doing what he/she has not done, does not intend to do, or is not in a position to do (PCA §7).</p>
<p>Current Status</p>	<p>Enforcement Body</p>	<p>The Central Vigilance Commission supervises the Central Bureau of Investigation (the “CBI”) to investigate certain offenses under the PCA. The CBI Anti-Corruption Division investigates cases under the PCA against public officials and employees of the central government, public sector undertakings and corporations or bodies owned or controlled by</p>

		<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 (the "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 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 3 months.</p> <p>According to a government estimate, as of June 30, 2017, 6,414 corruption cases filed by the CBI were pending in various courts throughout the country. The high pendency of cases is one of the greatest challenges in enforcement.</p>
	Recent Movement	<p>Benami Transaction Act</p> <p>As mentioned above, the Benami Transaction (Prohibition) Act, 2016 ("Benami Transaction Act") 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>Elimination of "Black Money"</p> <p>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		January 19, 2018

Region		Southeast Asia
Country		Indonesia
2017 CPI	Rank	96/180
	Score	37
The Law on Bribery	Bribery of Domestic Officials	<p>Anti-corruption provisions are included in the Eradication of the Criminal Act of Corruption Law (Law No. 31/1999, amended by Law No. 20/2001 and Law No. 7/2006; collectively, the “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 Organizer Who is Free from Corruption, Collusion, and Nepotism, Law No. 30/ 2002 regarding the Commission for the Eradication of Corruption (the “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: 1 to 5 years imprisonment and/or a fine of 50,000,000 to 250,000,000 rupiahs (Law No. 31/1999 art. 5). • in relation to the power or authority of the position (without requesting an exchange in performance): up to 3 years imprisonment and/or a maximum fine of 150,000,000 rupiahs (Law No. 20/2001 art. 13). <p><u>Receiving a bribe:</u> Criminal charges may be imposed on a civil servant or state operator (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: 1 to 5 years imprisonment and/or a fine of 50,000,000 to 250,000,000 rupiahs (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 4 to 20 years imprisonment and a fine of 200,000,000 to 1,000,000,000 rupiahs (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 4 to 20 years imprisonment and a fine of 200,000,000 to 1,000,000,000 rupiahs (Law No. 20/2001 art. 2). • abusing his/her authority with an intention to earn profits: life imprisonment or 1 to 20 years imprisonment or a fine of 50,000,000 to 1,000,000,000 rupiahs (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 the given case, the parties who will represent the companies during criminal proceedings, and the imposable sanctions.</p> <p>For corrupt acts involving amounts of less than 5,000,000 rupiahs, the maximum term of imprisonment is 3 years and the maximum fine is 50,000,000 rupiahs (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: (1) corporations that receive assistance from state finance or regional finance and (2) 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 1/3 (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 operators (elected and appointed) and members of the armed forces, “government employees” under the Anti-Corruption Laws include: persons receiving salaries or wages from (1) state finance or regional finance; (2) a corporation which receives assistance from state finance or regional finance; or (3) 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 10,000,000 rupiahs 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>

	Issues in Enforcement	<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., 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 to whistleblowers. The KPK is only authorized to investigate and prosecute 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.
	Recent Movement	<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 has been in force as of 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>
Participation in International Anti-corruption Conventions	OECD Convention	No. However, Indonesia has 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	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		January 29, 2018

Region		Southeast Asia
Country		Laos
2017 CPI	Rank	135/180
	Score	29
The Law on Bribery	Bribery of Domestic Officials	<p>Under the Law on Anti-Corruption (No. 27/NA, December 18, 2012) (the “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 or 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>Pursuant to Article 174 of the Penal Law (No. 12/NA, November 9, 2005) (the “Penal Law”), it is an offense for administrative staff, technical staff, the staff of a state enterprise, or any leader, civil servant, soldier, or police officer, as well as any village chief or person with official powers to (among other acts) receive bribes.</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 157 of the Penal Law, intermediaries who accept bribes can be punished through imprisonment for no less than 6 months and up to a maximum of 2 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 16 of the Penal Law defines “offender” as “an individual 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 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>
	Commercial Bribery	<p>Article 2 of the Anti-Corruption Law defines 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>

		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 since both the offering and receipt of a bribe are acts that constitute corruption.
Definitions	Government Employee	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.
	Gratification (Gifts/ Entertainments/ etc.)	<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 or her official duties,” such gift or meal may be considered a bribe.</p> <p>The laws of Laos do not provide for any “de minimis” 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 non-discretionary 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.</p>
Current Status	Enforcement Body	<p>The Law on State Inspection (No. 02/NA, July 2, 2007) details the authority of the Government Inspection Authority (the “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. 10/NA, November 26, 2009), 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) (the “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 (the “AMLIO”), which is the agency to which reporting entities are meant to report information or 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 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	There are no publicly available corruption cases since court cases in Laos are not made public.
Participation in International Anti-corruption Conventions	OECD Convention	No
	UNCAC	Signed on December 10, 2003 Ratified on September 25, 2009
Last Updated		September 22, 2017

Region		Southeast Asia
Country		Malaysia
2017 CPI	Rank	62/180
	Score	47
The Law on Bribery	Bribery of Domestic Officials	<p>The primary anti-corruption law is the Malaysian Anti-Corruption Commission Act 2009 (the “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> Criminal liability may be imposed on legal persons in theory as “person” includes “a body of persons, corporate or unincorporated” under the MACC Act and “any company or association or body of persons, whether incorporated or not” under the PC. However, for a corporate entity to be held liable, more likely than not, it has to be proven that the directing mind and will of the corporate entity (which are usually the directors and senior management) have been involved in the breach of the relevant provision of the MACC Act.</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 (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 5 times the value of the gratification or RM10,000 (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.</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 Malaysian Anti-Corruption Commission (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 (the “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>
	Issues in Enforcement	<ul style="list-style-type: none"> There has recently been an increase in the MACC’s enforcement actions against high-ranking public officials. The enforcement actions against senior public officials for alleged corruption are as detailed in the section below.
	Recent Movement	<p>There were discussions circa 2016 in the media regarding a possible amendment of the MACC Act to further combat corruption within the country. However, to date the bill has yet to be tabled in Parliament.</p> <p>The proposed amendments include:</p> <ul style="list-style-type: none"> The introduction of a specific corporate liability provision extending liability to corporations for the acts of their employees who commit offenses under the MACC Act. The introduction of additional powers for the MACC to investigate the ownership of properties by a person suspected of being involved in corruption. Currently, the MACC has no power to request a person to make a declaration of assets without initiating a corruption probe on the individual involved. A reform of the recruitment process that would allow the MACC to exercise control over hiring practices. Currently, the hiring of MACC personnel is controlled by the Public Services Department, which is tasked with recruitment for the civil service in general. <p>Embezzlement of Sabah Rural Development Funds</p> <ul style="list-style-type: none"> It was reported in The Star newspaper on October 17, 2017 and October 19, 2017 that eleven individuals, including the president of the political party Parti Warisan Sabah, had been arrested by MACC in relation to the MACC’s investigation into the alleged embezzlement of funds intended for rural projects in Sabah. The investigation is ongoing.

		<p>Felda Global Ventures Holdings Scandal</p> <ul style="list-style-type: none"> • The president, Chief Financial Officer and two senior executive officers of Felda Group Ventures were arrested in connection with the purchase of a hotel in London by Felda Investment Corporation at an allegedly inflated price. • Since the initial arrests, the MACC also looked into other property purchases by Felda that appeared to raise red flags, including several hotel purchases in Sarawak and in regards to the Grand Borneo Hotel. • As of November 2017, the News Straits Times reported that the MACC’s investigations have completed and that a report would be submitted to the Attorney General’s Chambers. <p>Sabah Water Department Corruption Scandal</p> <ul style="list-style-type: none"> • The Star reported on October 6, 2016 that the MACC conducted its biggest ever seizure in its 49-year history; they recovered a total of RM114 million from the top two officials of the state of the Sabah Water Department as part of their investigation into alleged corruption. It was reported that the MACC had also arrested a 55-year old businessman who is believed to be the brother of the deputy director. • It was alleged that the two officials had abused their power by awarding contracts to 38 companies owned by their families or cronies to siphon funds provided to the Sabah Water Department by the federal government. This resulted in many other contractors not getting jobs for water-related projects involving around RM3.3 billion from the federal government. • At the end of 2016, the three suspects were officially charged at the Kota Kinabalu Sessions Court. The New Straits Times reports that as of December 2017, an ex-Sabah Water Department deputy director was also arrested to be charged over the scandal. The courts have fixed the case to be heard on February 5, 2018. <p>Other Enforcement Actions by the MACC Reported by the Press:</p> <ul style="list-style-type: none"> • Six police officers in Melaka were detained for allegedly running a protection racket, collecting money from illegal gambling dens and massage parlors in exchange for protecting these establishments from police action. The New Straits Times reported on September 20, 2017 that the investigation remains ongoing. • An assistant land officer at a district land office in the state of Johor has been arrested by the MACC on January 9, 2017. He was believed to have accepted a bribe in the form of a “loan” worth RM150,000 in a land deal. This case was the precursor to uncovering other housing and land-related scandals in Johor. The Johor Housing and Local Government committee chairman, his son, and his special officer, were arrested between February and March 2017. As of December 30, 2017, the case is still pending (as reported by The Star).
<p>Participation in International Anti-corruption Conventions</p>	<p>OECD Convention</p>	<p>No (observer status)</p>
	<p>UNCAC</p>	<p>Signed December 9, 2003 Ratified September 24, 2008</p>
<p>Last Updated</p>		<p>January 15, 2018</p>

Region		Southeast Asia
Country		Myanmar
2017 CPI	Rank	130/180
	Score	30
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. Under the recently passed Anti-Corruption Law, the attempt, conspiracy or abetment to commit bribery is punishable (Anti-Corruption Law sec. 3(v)).</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; punishable by up to 3 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 7 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; punishable by up to 3 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; punishable by up to 1 year imprisonment, a fine, or both (Penal Code sec. 163). • It is a crime for a public servant to abet the above-mentioned crimes; punishable by up to 3 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; punishable by up to 2 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>
	Bribery of Foreign Officials	Myanmar law includes a definition of foreign public servants.
	Commercial Bribery	<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</p>

		<p>(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>Definitions</p>	<p>Government Employee</p>	<p>The Anti-Corruption law distinguishes between a Political Post Holder, a High Ranking Officer, a Person in Authority, a Public Office 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(g)). • A 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(h)). • A 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 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(i)). • Public Official means any permanent or temporary employee working in any position of the legislature, administration and judiciary, 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(e)). • 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>

Current Status	Enforcement Body	<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 Anti-Corruption Commission was formed by the President on February 25, 2014.</p>
	Issues in Enforcement	<p>Current 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>
	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 ten 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 (the “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>The Anti-Corruption Commission</p> <p>The Anti-Corruption Law was enacted on August 7, 2013 and came into effect on September 17, 2013. The Anti-Corruption Commission was formed by the President on February 25, 2014.</p> <p>The Anti-Corruption Commission was recently reformed by the President on November 23, 2017.</p>
Participation in International Anti-corruption Conventions	OECD Convention	No
	UNCAC	<p>Signed December 2, 2005</p> <p>Ratified December 20, 2012</p>
Last Updated		January 17, 2018

Region		Southeast Asia
Country		Philippines
2017 CPI	Rank	111/180
	Score	34
The Law on Bribery	Bribery of Domestic Officials	<p>In the Philippines, the Revised Penal Code (the “RPC”) defines and provides penalties for bribery and corruption of domestic public officials. In addition, the Anti-Graft and Corrupt Practices Act, Republic Act No. 3019 (the “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 (the “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 (the “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 (the “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, (the “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 (the “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 (the “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. <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>
	Bribery of Foreign Officials	<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 (the “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>
	Commercial Bribery	<p>The Philippines does not currently have any domestic laws that prohibit commercial bribery in the private sector. Bribery in the private sector is not criminalized except for with respect to individuals who conspire with public officers.</p>

Definitions	Government Employee	<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>
	Gratification (Gifts/ Entertainments/ etc.)	<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 <u>Mabini v. Raga</u> (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> <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.</p>
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.

	<p>Issues in Enforcement</p>	<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 only applicable 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 inter-agency resources such as financial assistance and/or human resources; lack of inter-agency coordination and cooperation; lack of information sharing between agencies; and the culture in the Philippines of gift-giving and moral indebtedness.</p>
	<p>Recent Movement</p>	<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"> • In March 2017, President Duterte fired 92 government officials from different government agencies allegedly for being involved in corruption. The government agencies include the Bureau of Customs (“BOC”), the Bureau of Internal Revenue, the Land Transportation Franchising and Regulatory Board, the Energy Regulatory Commission (“ERC”) and the Land Transportation Office. • President Duterte removed from office Abakada party-list representative Jonathan dela Cruz from his role as a member of the Government Service Insurance System. Dela Cruz was removed for allegedly issuing a board resolution unilaterally. The President removed Undersecretary Maia Chiara Halmen Reina Valdez for allegedly defying the National Food Authority’s decision suspending rice importation to the Philippines. Dangerous Drugs Board (“DDB”) Chairman Benjamin Reyes was removed for allegedly contradicting the government’s data on the number of drug addicts in the Philippines. Finally, the President removed Department of the Interior and Local Government Secretary Ismael Sueno for loss of trust and confidence. Sueno was accused of accepting money from illegal gambling through his grandson. • The BOC faced investigations for corruption inside the agency. Former BOC Commissioner Nicanor Faeldon allegedly systematized the corruption in the BOC by creating the Command Center, which was used as a conduit for corruption and was used to monopolize the collection of “tara” from Customs Players. The “tara system” was used to facilitate the movement of goods of certain individuals. The investigation of the BOC stemmed from the smuggling of PHP 6.4 billion worth of methamphetamine hydrochloride found in two warehouses in Valenzuela City. • Chief Justice Ma. Lourdes Sereno is presently facing an impeachment complaint. The Chief Justice allegedly failed 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. • In October 2017, the Office of the Ombudsman (“Ombudsman”) found probable cause to indict former Bureau of Immigration Commissioners Al Argosino and Michael Robles for plunder and bribery. These charges are in connection with their alleged extortion of PHP 50 million from Jack Lam, a gaming tycoon. • In October 2017, President Duterte removed ERC Chairman Jose Vincent Salazar. Salazar was found guilty of simple and grave misconduct for allegedly issuing orders in connection with the renewal of Electric Power Purchase Agreements between FDC Utilities, Inc. – Misamis and several distribution utilities. • On October 4, 2017, President Duterte signed Executive Order No. 43 creating the Presidential Anti-Corruption Commission (the “Commission”). The Commission was created under the Office of the President to directly assist the President in investigating and/or hearing administrative cases primarily involving graft and corruption against all presidential appointees and to perform such other similar duties as the President may direct. The Commission has a wide range of authority and may (i) hear, investigate, receive, gather and evaluate evidence, intelligence reports and information in administrative cases against all presidential appointees in the Executive Branch and

		<p>any of its agencies or instrumentalities occupying the position of Assistant Regional Director or an equivalent rank or higher; (ii) investigate presidential appointees in the Armed Forces of the Philippines and the Philippine National Police; (iii) conduct lifestyle checks and fact-finding inquiries on acts or omissions of all presidential appointees; (iv) recommend to the President the issuance of a preventive suspension order; and (v) administer oaths and issue subpoenas <i>ad testificandum</i> and <i>duces tecum</i>.</p> <ul style="list-style-type: none"> • In December 2017, the Ombudsman suspended the four Commissioners of the ERC: Gloria Victoria Yap-Taruc, Alfredo Non, Josefina Patricia Magpala-Asirit and Geronimo Sta. Ana. The Commissioners were suspended for giving unwarranted benefits to Meralco and other companies by exempting these companies from the competitive selection process. • Sandra Cam, a board member of the Philippine Charity Sweepstakes Office (“PCSO”) and a former jueteng whistleblower, exposed the PCSO for holding an extravagant Christmas party at Edsa Shangri-La. It was alleged that the PCSO spent PHP 10 million on the Christmas party. PCSO General Manager Alexander Balutan clarified that the PCSO spent PHP 6 million on the Christmas party and that the Department of Budget and Management initially approved a PHP 14 million budget for the Christmas party. • Early in 2018, President Duterte stated that he signed an Executive Order banning the travel of executive department government officials. President Duterte said that government officials must first submit an itinerary and a memorandum on the objectives of the trip. In connection with the Executive Order, Executive Secretary Salvador Medialdea issued a Memorandum containing the guidelines for foreign travel of all government officials and personnel in the executive department. The Memorandum states that no official foreign travel of government officials and personnel shall be allowed unless it satisfies the following minimum criteria: (i) the purpose of the trip is strictly within the mandate of the requesting government official or personnel; (ii) the projected expenses for the trip are not excessive; and (iii) the trip is expected to bring substantial benefit to the country. • In January 2018, President Duterte fired Maritime Industry Authority Administrator Marcial Amaro III for excessive travel. He allegedly travelled 6 times in 2016 and 18 times in 2017. President Duterte also fired Presidential Commission for the Urban Poor Chair Terry Ridon for taking at least 7 trips to foreign countries.
<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>February 7, 2018</p>

Region		Southeast Asia
Country		Singapore
2017 CPI	Rank	6/180
	Score	84
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) (the “PCA”) and the Penal Code (Cap 224, 2008 Rev Ed) (collectively, the “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 (i) of foreign public officials in Singapore and (ii) of foreign officials by Singapore citizens overseas) impose fines up to S\$100,000 and/or imprisonment of up to 5 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 7 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 3 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 (the “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 non-corruption related offenses disclosed during the corruption investigation. <p>The Commercial Affairs Department (the “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 (the “EGD”) of the Attorney-General’s Chambers was renamed the Financial and Technology Crime Division (the “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 (the “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 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 of America 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, Petroleo 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. DOJ and in 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 US \$422,216,980 to the U.S., 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.
Participation in International Anti-corruption Conventions	OECD Convention	Yes
	UNCAC	Signed November 11, 2005 Ratified November 6, 2009
Last Updated		January 18, 2018

Region		Southeast Asia
Country		Thailand
2017 CPI	Rank	96/180
	Score	37
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, the Offense of State Organization Staff Act – BE 2502 (the “State Staff Act”), the Organic Act on Counter Corruption – BE 2542 (the “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 2553, 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 Offences 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 a public official in order to induce the official to wrongfully discharge, omit to discharge or delay the discharge of his/her duties (Penal Code sec. 144).</p> <ul style="list-style-type: none"> • punishable with up to 5 years imprisonment and/or a fine of up to THB 100,000 • bribing a judge, public prosecutor or other officials tied to a case may result in up to 7 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 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; punishable with 5 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).</p> <p>Giving a bribe is only a crime 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>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).</p> <p>In addition, according to Section 123/5 of the Anti-Corruption Act as amended by the Anti-Corruption Act (No. 3) BE 2558, 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 5 years or a fine not exceeding THB 100,000, or both.</p> <p>Paragraphs 2 and 3 of Section 123/5 of the Anti-Corruption Act as amended by the Anti-Corruption Act (No. 3) BE 2558 provides that in the case where a company does not have its internal control measures set properly so as to prevent such an offense that may have occurred, regardless of whether such offense was committed by the employee, agency, affiliated company or any person acting, with or without authorization, for or on behalf of such person benefiting from such offense, the company shall be liable to pay a one-time fine not exceeding double the amount of either the damages which have occurred or the benefits.</p>
	Bribery of Foreign Officials	<p>The Anti-Corruption Act as amended by the Anti-Corruption Act (No. 3) BE 2558 provides for liability for the bribery of state officials of foreign countries and officials of international organizations.</p> <p>The term “State official of the foreign country” in Section 4 of the Anti-Corruption Act as amended by the Anti-Corruption Act (No. 3) BE 2558 means a person holding a legislative,</p>

		<p>administrative, governing or judiciary position of the foreign country, and any person performing duties for the state of the foreign country, including a state agency or a state enterprise, regardless of whether or not any such person is designated or elected, or holds a permanent or temporary position, or receives wages or other remunerations.</p> <p>The term “official of the international organization” means a person either performing in an international organization or authorized to act on behalf of such an international organization.</p> <p>However, the term “state official” in Section 123/5 of the Anti-Corruption Act as amended by the Anti-Corruption Act (No. 3) BE 2558 as mentioned above, prescribing the provision regarding bribery of domestic officials, can include either the state official of the foreign country or the official of the international organization.</p> <p>Therefore, the penalty under Section 123/5 of the Anti-Corruption Act as amended by the Anti-Corruption Act (No. 3) BE 2558 shall also be applicable in the case of the bribery of foreign officials.</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, 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 (which are often involved 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” refers to a person appointed by the Thai government to perform governmental functions, regardless of whether he/she is paid by the government (Supreme Court Decisions No. 700/2490, 82-86/2506, 1397-1398/2500); an employee of a majority state-owned enterprise may be a “public official” (Penal Code).</p> <p>“State staff” includes anyone who works in an organization, company, agency or another entity where more than 50 percent of its capital is held by the Thai government (State Staff Act).</p> <p>“State Official” refers to a person who holds a political position or performs duties in a state enterprise or agency (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 National Anti-Corruption Committee (the “NACC”) in 2000, state officials are prohibited from receiving any gift in any form (including travel, entertainment, etc.) that exceeds THB 3,000 in monetary value from non-relatives. 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>

Current Status	Enforcement Body	The NACC was established under the 1997 Constitution and the Anti-Corruption Act to prevent and investigate corruption crimes.
	Issues in Enforcement	<p>Under the amended Organic Act on Counter Corruption - BE 2542, the NACC has, among other powers, the power to:</p> <ol style="list-style-type: none"> (1) inquire into facts, summarize the case and prepare the opinion to be submitted to the Senate under Chapter 5, Removal from Office; (2) inquire into facts, summarize the case and prepare the opinion to be referred to the Prosecutor-General for the purpose of prosecution before the Supreme Court of Justice’s Criminal Division for Persons Holding Political Positions under Chapter 6, Criminal Proceedings Against Persons Holding Political Positions under section 275 of the Constitution; (3) inquire and decide whether a State official has become unusually wealthy or has committed an offense of corruption, malfeasance in office or malfeasance in judicial office; (4) inspect the accuracy and actual existence of assets and liabilities of State officials and inspect changes of assets and liabilities of the persons holding political positions under Chapter 3, Inspection of Assets and Liabilities; (5) inquire and rule whether an official of a foreign state, an official of an international organization or any person commits an offense under section 123/2, section 123/3, section 123/4 or section 123/5; (6) inquire and rule on the commission of an offense, within the scope of powers of the National Anti-Corruption Commission, which occurred outside the Kingdom of Thailand. In this regard, cooperation for the purpose of inquiry and ruling shall be in accordance with the law on such matter; (7) prescribe rules with respect to the determination of positions and classes or levels of State officials obliged to submit an account showing particulars of assets and liabilities; (8) prescribe rules and procedures for the submission of the account showing particulars of assets and liabilities of State officials and the disclosure of accounts showing particulars of assets and liabilities of persons holding the position of Prime Minister and Minister; (9) submit an inspection report and a report on the performance of duties together with remarks to the Council of Ministers, the House of Representatives and the Senate annually and publish these reports for dissemination; (10) propose measures, opinions or recommendations to the Council of Ministers, National Assembly, Courts or the State Audit Commission for the purpose of improving the performance of government services or formulating action plans or projects of Government agencies, State enterprises or other State agencies in an endeavor to control corruption and the commission of an offense of malfeasance in office or malfeasance in judicial office; (11) refer matters to the agency concerned for the purpose of making a request to the Court for an order or judgment cancelling or revoking a right or document of title in respect of which the State official has given approval or granted permission conferring the rights or benefits or issued the document of title to a particular person in contravention of the law or official regulations to the detriment of the Government service; (12) take action with a view to preventing corruption and creating a culture of integrity and honesty, and take such action to facilitate members of the public or groups of persons to participate in countering corruption; (13) give approval to the appointment of the Secretary-General; (14) appoint persons or a group of persons to perform entrusted duties;

		<p>(15) carry out the Anti-Corruption Coordination Center in accordance with agreements or conventions made with other countries;</p> <p>(16) carry out acts in accordance with a request for assistance from a foreign state in an anti-corruption case as submitted by the Central Authority, under the law on mutual legal assistance in criminal matters, to the National Anti-Corruption Commission, and consider providing assistance to a foreign state in a corruption case even if a request for assistance is not a request under the law on mutual legal assistance in criminal matters; and</p> <p>(17) carry out other acts provided by the Organic Act or other laws under the responsibility of the NACC.</p>
	<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, which 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> <p>1. The Act on Facilitation for Consideration of Approvals from the Government Agencies – BE 2558</p> <p>This act was published on January 22, 2015. The Act 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 the 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 5 years from the date of publication of such laws.</p> <p>2. The Khemarat Declaration</p> <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 (the “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> <p>The Thailand Anti-Corruption Agreements Coordination Center was established following Thailand’s ratification of the UNCAC to comply with section 19 (14) of the Organic Act on Anti Corruption (No.2) BE 2554 (2011).</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. However, the efficacy of some of these measures has been questioned.</p> <p>3. MOU between NACC, the State Enterprise Policy Office and 54 State Enterprises</p> <p>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 the following: 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.</p> <p>4. Anti-Corruption Courts and Cross-Border Cooperation under the UNCAC</p> <p>Thailand has enacted legislation to create anti-corruption courts. In October 2016, the central anti-corruption courts for Bangkok and nearby provinces were opened. Then in late 2017 regional anti-corruption courts were established.</p> <p>In its first high-profile case, on March 29, 2017, the Bangkok anti-corruption court imposed a 50-year prison sentence on Juthimas Siriwan, the former Governor-General of the Thai Tourism Authority (“TAT”), imposed a 44-year sentence on her daughter, Jittisopha Siriwan, and seized over US \$1,800,000 in bribes that were received from an American couple, Gerald and Patricia Green, in return for the rights to organize the Bangkok Film Festival.</p> <p>The bribe payers, Gerald and Patricia Green, were convicted of violating the FCPA and related charges on September 11, 2009 and each served 6-month prison terms. Before the Thai courts commenced proceedings against the Siriwans, the U.S. indicted them on wire fraud and related charges. The Siriwans contested the U.S. charges, and after protracted proceedings over several years 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. The Thai proceedings resulted in the lengthy sentences handed down on March 29, 2017.</p> <p>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. The FBI and U.S. Justice Department, after the Greens were found guilty in the U.S., provided evidence to the NACC leading to the determination that the Siriwans engaged in misconduct. In accordance with the UNCAC, Thai officials will continue to coordinate with the U.S. government in order to conduct an overseas seizure of US \$1,800,000 in bribes deposited in U.S. bank accounts.</p> <p>The “Rolls-Royce bribery scandal,” which involved many different governments, including the Thai government, is another case that has drawn the attention of the NACC. The NACC is close to concluding an investigation after assistance from Britain’s anti-corruption agency on information related to the bribe. This cooperation between agencies is a result of the cooperation of the two nations under the UNCAC.</p>
<p>Participation in International Anti-corruption Conventions</p>	<p>OECD Convention</p>	<p>No</p>
	<p>UNCAC</p>	<p>Signed December 9, 2003 Ratified March 1, 2011</p>
<p>Last Updated</p>		<p>January 24, 2018</p>

Region		Southeast Asia
Country		Timor-Leste
2017 CPI	Rank	91/180
	Score	38
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. 5/2013, 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 3 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 3 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 3 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 2 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 (i) the Public Prosecutor’s Office or (ii) 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, amongst 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 7 and 4 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>The government has signaled its commitment to fighting corruption, most notably by (i) creating the Anti-Corruption Commission and (ii) becoming the first country in Asia and the third in the World to become fully EITI compliant.</p>
	Recent Movement	<p>2017 Developments</p> <p>Following last year's conviction of the former Minister of Finance, the Dili Court has recently 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>There has been an increase in the number of investigations into companies incorporated in Timor-Leste due to suspicions of money laundering. This is also 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>
Participation in International Anti-corruption Conventions	OECD Convention	No
	UNCAC	Yes (National Parliament Resolution No. 25/2008, of December 10, 2008)
Last Updated		January 19, 2018

Region		Southeast Asia
Country		Vietnam
2017 CPI	Rank	107/180
	Score	35
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 (the “Penal Code 2015”) and the Anti-Corruption Law of 2005 (as amended by the Law on Amendment to the Anti-Corruption Law dated August 4, 2007 and November 23, 2012) (the “Anti-Corruption Law”) both contain provisions relating to corruption. The Anti-Corruption Law 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 the Penal Code 2015 focuses on the applicable criminal punishments.</p> <p>Under the Penal Code 2015 and the Anti-Corruption Law, 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 the Penal Code 2015. Although not explicit in the code, it is implied (in consideration of Article 1.3 of the Anti-Corruption Law) that the bribe must be given to someone with power or a position in a governmental or public entity. The 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 the Penal Code 2015, it is a crime if (1) the recipient of the bribe has power or a position and takes advantage of such power or position; (2) 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 the Penal Code 2015; or accepts an intangible benefit and (3) performs or omits a performance based on the bribe.</p> <p><u>Facilitating a bribe:</u> One who facilitates bribes may be prosecuted under the 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 5 times the value of the bribe and prohibition from holding certain jobs for a period of time.</p> <p>For purposes of the Anti-Corruption Law, “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) taking advantage of power or a position to illegally use state properties for an undue benefit; (vi) failure to perform tasks or official duties for an undue benefit; (vii) taking advantage of power or a position to cover up law violators for an undue benefit; and (viii) 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>The 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 the Anti-Corruption Law is silent on bribery of foreign officials, the common approach is to understand foreign bribery as beyond the scope of the law. The government is working on anti-corruption reforms that will implement the UNCAC plans,</p>

		but it is unclear whether the anti-corruption laws will be extended to apply to foreign officials.
	Commercial Bribery	The Penal Code 2015 criminalizes bribery in the private sector, which is subject to the same crimes applicable to bribery in the public sector.
Definitions	Government Employee	Under Article 1.3 of the Anti-Corruption Law, “persons with positions and/or power” may include public officials (elected or appointed to office), civil servants (on the government’s payroll), army or police officers, and heads and managers of state-owned enterprises. There is also a catch-all provision that includes “persons assigned tasks or official duties who have power while performing such tasks or official duties.”
	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 Section 1, Chapter V of the Anti-Corruption Law, the following 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 Police 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 Mr. 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. • 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>The government recently introduced a draft amendment to the Anti-Corruption Law (which has already been amended twice since it was first introduced in 2005). The draft amendment would introduce the following notable changes:</p> <ul style="list-style-type: none"> • New provisions intended to prevent “group interests” (i.e., senior officials would be prohibited from letting persons who they are related to participate in the management of or own greater than 10% of an enterprise operating in the sector(s) under the official’s supervision). • A new chapter on transparency and the supervision of assets and income.
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>
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