

# ANTI-CORRUPTION REGULATION SURVEY OF SELECT COUNTRIES 2014



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## Introduction to 2014 Anti-Corruption Regulation Survey

Welcome to the 2014 edition of the Jones Day Anti-Corruption Regulation Survey of Select Countries. We have added The Netherlands, Hong Kong and Belgium to the survey this year in light of their increasing importance to different segments of our client base. This brings to 39 the total number of countries covered by the Survey. We have kept the same uniform format for each country summary as in the 2013 edition. That format is explained below.

There is an increasing awareness among multinational companies of the significance of anti-corruption regulations in many countries and the potential risk of violating these regulations or being associated with companies or individuals that are engaged in such violations.

The United States has become increasingly aggressive in enforcing its anti-corruption regulations, including as to non-U.S. companies operating outside of the U.S. with limited connections to the U.S. The United Kingdom has also adopted wide-ranging anti-corruption regulations covering extra-territorial conduct. Even though the regulatory and enforcement environments vary widely from country to country, there has been a clear movement in many countries toward increased regulation and stricter enforcement.

This Survey is intended to give an overview snapshot of the complex and evolving anti-corruption regulations in 39 developed and developing countries. Ways in which it may be useful will vary depending on a company's situation and needs. A few examples follow:

- **Due diligence.** This Survey may be useful to give a sense of key aspects of anti-corruption regulations that apply to the potential target of M&A or partner of a joint venture.
- **Prospective business partners.** If a company is considering entering into a relationship with a business partner (e.g., vendor or customer) from another country, this Survey may be useful to give a sense of potential landmines in relation to the partner's local business activities.
- **Considering efficacy of compliance programs.** This Survey may be helpful in considering whether and how to develop a compliance program, whether on a country, regional or global basis. As a baseline starting point, one needs to have an understanding whether a particular action (for example, certain gifts or entertainment) would 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) what "public official" means; (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 country covered herein. CPI means 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 2014, the CPI ranked 175 countries based on their scores. This Survey also identifies major international conventions to which each country covered by this survey 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 regulation in a particular country, but is not a substitute for a review of 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 do 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 the specific facts and circumstances or guidance as to local counsel where appropriate. If questions come up in relation to multiple jurisdictions, the Jones Day team, including its local correspondents where appropriate, can effectively coordinate to provide a comprehensive and focused response.

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## GLOSSARY

Term	Meaning
AUCPCC	African Union Convention on Preventing and Combating Corruption
CPI	Corruption Perceptions Index published by Transparency International ranks countries by perceived levels of corruption as determined by expert assessments and opinion surveys. In 2014, 175 countries were ranked by CPI score. The CPI score ranges from 100 (very clean) to 0 (highly corrupt).
OAS	Organization of American States
OAS Convention	OAS Inter-American Convention against Corruption. Adopted in March 1996
OECD	Organization for Economic Co-operation and Development
OECD Convention	OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. 41 countries have acceded as of May 30, 2014. OECD cannot force implementation, but 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 November 12, 2014, there are 140 signatories and 173 parties to UNCAC, including the European Union.

This publication should not be construed as legal advice on any specific facts or circumstances. The summaries in this publication are general and introductory and are not, and are not intended to be, a comprehensive analysis of any issues or constitute legal advice; the applicable legal rules are technical in nature requiring appropriate legal advice based on the actual facts and circumstances of the situation. The contents of this publication may not be photocopied and may not be quoted or referred to in any other publication or proceeding without the prior written consent of the Firm, to be given or withheld at our discretion. To request reprint permission for any of our publications, please use our "Contact Us" form, which can be found on our web site at [www.jonesday.com](http://www.jonesday.com). The mailing of this publication is not intended to create, and receipt or review of it does not constitute, an attorney-client relationship. The views set forth herein are the personal views of the contributors and do not necessarily reflect those of the Firm.

<b>Region</b>		Africa
<b>Country</b>		<b>Kenya</b>
<b>2014 CPI</b>	<b>Rank</b>	145/175
	<b>Score</b>	25
<b>The Law on Bribery</b>	<b>Bribery of Domestic Officials</b>	<p>Kenya has a series of laws that cover bribery. The principal statute that covers bribery of all kinds is the Anti-Corruption and Economic Crimes Act of 2003 (ACEC).</p> <p>The ACEC prohibits bribery of “agents,” which may be anyone who functions on behalf of another person in both the public and the private sectors; maximum fine of Kenya shillings one million (approximately USD 11,136) or ten years imprisonment, or both, and additional fines if the person receives a quantifiable benefit (ACEC sec. 48).</p> <p><u>Offering a bribe:</u> It is a crime for a person to corruptly give, offer or agree to give or offer a benefit (ACEC sec. 39(3) (b)).</p> <p><u>Receiving a bribe:</u> It is a crime for a person to corruptly receive or agree to receive a benefit (ACEC sec. 39(3) (a)).</p> <p>“Corruptly receiving or offering” pertains to benefits that are inducements or rewards for an agent to do or not do something related to the agent’s principal or show favor or disfavor in relation to the affairs of the principal.</p> <p>The Public Procurement and Disposal Act of 2005 (PPDA) prohibits corrupt practices in procurement proceedings; maximum fine of Kenya shillings four million (approximately USD 44,543) or ten years imprisonment, or both, and public officers will be disqualified from public office.</p> <p>The Penal Code prohibits anyone who is employed in the public sector from abusing the authority of his office to act in a prejudicial way that harms the rights of another (which includes bribery); maximum fine of Kenya shillings one million (approximately USD 11,136) or ten years imprisonment, or both.</p> <p><u>Corporate liability:</u> Under Kenyan law, a legal “person” includes a company, association, or body of natural persons. Fines imposed on corporate persons who break the law may be more severe than those imposed on natural persons. For example, under the PPDA, the maximum fine for a corporation is Kenya shillings ten million (approximately 115,437) while that for an individual is Kenya shillings four million (approximately USD 44,543).</p>
	<b>Bribery of Foreign Officials</b>	The ACEC, 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.
	<b>Commercial Bribery</b>	The ACEC covers commercial bribery as well as public bribery. Company employees are “agents” of the company, and the ACEC prohibits the bribery of all agents.
<b>Definitions</b>	<b>Government Employee</b>	<p>The term “public officer” is defined under the Leadership and Integrity Act, No. 19 of 2012 (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.</p> <p>However, under the ACEC’s provisions on bribery, the key term is not “public officer,” but “agent”. 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>
	<b>Gratification (Gifts/ Entertainments/ etc)</b>	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 Kenya shillings twenty thousand (approximately USD 223); other types of gifts given to officers in their official capacity would be treated as gifts to the public officer’s

		<p>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> <p>(a) 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 officer's organization has a role; or (iii) has a contractual or legal relationship with the state officer's organization;</p> <p>(b) Accepting gifts of jewelry or other gifts comprising of precious metal or stones, ivory or any other animal part protected under the Convention on International Trade in Endangered Species of Wild Fauna and Flora; or</p> <p>(c) Accepting any other type of gift specified by the Ethics and Anti-Corruption Commission (EACC).</p> <p>The LIA provides that a state officer may receive a gift given to him 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 EACC.</p>
<b>Current Status</b>	<b>Enforcement Body</b>	<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 (KACC) and replacing it with the EACC as the new investigatory body. The KACC, which was under heavy political influence, was not effective in cases involving high-level officials. The EACC has authority to prosecute crimes (although it still forwards most cases to the Director of Public Prosecutions (DPP), independence from politics (the head of the agency is appointed for a six-year non-renewable term) and the authority to engage in out-of-court settlements.</p>
	<b>Issues in Enforcement</b>	<ol style="list-style-type: none"> <li>1) Lack of commitment by senior officials who see no difference between their personal gains and official duties.</li> <li>2) Ineffective enforcement of whistleblower protection, despite the existence of the Witness Protection Act.</li> <li>3) 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.</li> </ol>
	<b>Recent Movement</b>	<ol style="list-style-type: none"> <li>1) The EACC has recommended to the DPP the prosecution of at least ten (10) persons suspected of having been involved in the "Anglo Leasing Corruption" scandal. The DPP has formed a committee to investigate the allegations leveled against these persons.</li> <li>2) The EACC is in the process of developing a policy, the National and Anti-Corruption Policy in Kenya, which will set out the framework of implementation of the anti-corruption laws.</li> </ol>
<b>Participation in International Anti-corruption Conventions</b>	<b>OECD Convention</b>	No
	<b>UNCAC</b>	Signed Dec. 9, 2003 Ratified Dec. 9, 2003
<b>Last Updated</b>		November 10, 2014

<b>Region</b>		Africa
<b>Country</b>		<b>Mozambique</b>
<b>2014 CPI</b>	<b>Rank</b>	119/175
	<b>Score</b>	31
<b>The Law on Bribery</b>	<b>Bribery of Domestic Officials</b>	<p>The Parliament of Mozambique first adopted legislation on corruption called the Anti-Corruption Act (Law 6/2004, of 17<sup>th</sup> June) in 2004, supported by its relevant Regulations approved by the Government of Mozambique by Decree 22/2005, of 22<sup>nd</sup> June) – all together referred to as “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 punishment of incarceration between two and eight years and a fine up to one year – established by a court of law in between 2,00 MT and 30,00 MT per day, up to 365 days/year (ACA art. 9, cl. 1). However, the penalties may be reduced if the action was committed to protect the offeror-violator or his 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 punishment of incarceration between two and eight years and a fine up to one year. However, if the action at issue is an omission or delay, or if it is not carried out, the penalties may be reduced to incarceration up to two years and a corresponding fine, or incarceration up to one year and a fine up to two months (ACA art. 7, cl. 4-5). Moreover, if the offer or promise accepted is voluntarily repudiated by the public official and the amount received, if any, is returned before such action is performed, the penalties will not apply (ACA art. 7, cl. 6).</p> <p>Under Article 11 of the ACA, violators may also be subject to one or more of the following penalties: (1) loss of assets or possessions accrued by illicit actions; (2) full indemnification of damages caused; (3) expulsion from the profession; (4) prohibition from subcontracting to the state or public enterprises and from receiving tax or credit benefits or incentives.</p> <p>The Penal Code also includes penalties for public officials who accept a donation or gift to perform their official task in an unjust way, as well as any persons who offer gifts, presents or promises to public officials in order to obtain a favor. Individuals who engage in the foregoing conduct are subject to incarceration between two and eight years and a fine of up to one year (Penal Code art. 318, 321).</p> <p><u>Corporate liability</u>: Neither the ACA nor the Penal Code imposes criminal liability on legal entities.</p>
	<b>Bribery of Foreign Officials</b>	Foreign officials are also subject to the ACA, as per provision of article 2 clause 3 – “the provisions of this Law apply to those that, even not being part of any of the entities subject to the law as foreseen above, induce or contribute in the practice of the crimes foreseen in article 1 of the ACA, or, benefit from them.”
	<b>Commercial Bribery</b>	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.
<b>Definitions</b>	<b>Government Employee</b>	<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.”</p> <p>In 2012, the Mozambican Parliament adopted the Public Probity Act (Law 16/2012, of 14 August). This law establishes the bases and the legal regime concerning public morality and respect for public property by a public servant. 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 considered the 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>For the purposes of the Public Probity Act, the following entities are public servants:</p>

		<ul style="list-style-type: none"> <li>a) Judges and prosecutors from all courts, without exception;</li> <li>b) A Judge of the Constitutional Council;</li> <li>c) Governor and Deputy Governor of the Central Bank of Moçambique;</li> <li>d) President of the tax authority;</li> <li>e) Rectors and Vice-Rectors of public universities and higher education institutions;</li> <li>f) Ambassador;</li> <li>g) Chairman of the Committee on Elections at all levels;</li> <li>h) Consul;</li> <li>i) Secretary-General;</li> <li>j) Inspector of State;</li> <li>k) Permanent Secretary, at all levels;</li> <li>l) Director-General;</li> <li>m) National Director and Deputy National Director or similar;</li> <li>n) Director of the Technical Secretariat of Electoral Administration, at all levels;</li> <li>o) Provincial and District Directors and provincial and District Deputy Directors;</li> <li>p) Employee and agent of the State;</li> <li>q) Public managers;</li> <li>r) Director nominated to a public entity in a legal person governed by public law or public capital company or mixed economy;</li> <li>s) Managers and other employees of courts and public prosecutors;</li> <li>t) Managers, leaders and officials or employees of public institutes, foundations or public funds, public companies and companies in which the State;</li> <li>u) Holders of agencies and officials or employees of the local authorities, members of the municipal councils, members of the provincial assemblies, public associations and entities that receive subsidy of public body;</li> <li>v) Holders responsible and officials or employees of public institutions;</li> <li>w) Managers and employees of private companies invested public functions through concession, license, lease or other contractual ties;</li> <li>x) Civil servants and public-sector workers and administrative business, integrated into direct or indirect State administration or autonomous administration of the State;</li> <li>y) Elements of force and security and Paramilitary forces at all levels;</li> <li>z) Division Directors.</li> </ul>
	<p><b>Gratification (Gifts/ Entertainments/ etc)</b></p>	<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"> <li>a) favorable treatment of a specific person, company or organization;</li> <li>b) benefits, compensation, bribes, loans, adjudication or signing of contracts in violation of the law;</li> <li>c) giving information on public tenders against fair competition law; and</li> <li>d) fraudulently supplying information on examination tests (ACA art. 9, cl. 3).</li> </ul> <p>Under the Public Probity Act, the public servant should not, by the exercise of their duties, require or receive benefits and offers, directly or through an intermediary, to natural or legal entities, of Mozambican or foreign law.</p> <p>They are also included in the prohibition, laid down in the preceding paragraph, against all offers with a value greater than one-third of the monthly salary of a holder of political office or public servant, paid by the public entity for providing services, either, particularly in:</p> <ul style="list-style-type: none"> <li>a) money in national or foreign currency;</li> </ul>

		<p>b) movable property of any kind, such as furniture, appliances, jewelry and other artifacts;</p> <p>c) real state property or any repair services of real estate public agent, as well as its lease;</p> <p>d) cars, boats or any means of transport;</p> <p>e) paid vacation;</p> <p>f) any either type of gifts or advantages.</p> <p>It is also forbidden for the public servant to receive any type of gift, regardless of its value, from those who have interest in a decision that he, the agent, will take about a particular subject.</p>
<b>Current Status</b>	<b>Enforcement Body</b>	<p>In 2005, the Central Office for Combating Corruption (Gabinete Central de Combate à Corrupção, 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 has 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.</p>
	<b>Issues in Enforcement</b>	<p>1) Political interference is a major problem in the GCCC because its 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 has jurisdiction only to investigate but not prosecute the corruption-related complaints.</p> <p>2) Notwithstanding Article 13 of the ACA, which stipulates protection of informant or complainant, Mozambique does not have robust protection for the whistleblowers.</p>
	<b>Recent Movement</b>	<p>In July 2011, the Mozambican Council of Ministers proposed a new anti-corruption law and revision of the criminal code called the “Anti-Corruption Package.” The Anti-Corruption Package proposes stronger whistleblower protection, an ethical behavior code for public officials and criminalization of embezzlement, influence peddling and graft. The Anti-Corruption Package was submitted to the parliament in November 2011 and was scheduled for debate in March 2012. However, due to the complexity of the bill, the scheduled debate was postponed.</p>
<b>Participation in International Anti-corruption Conventions</b>	<b>IACA Agreement</b>	Signed February 2013
	<b>OECD Convention</b>	No
	<b>UNCAC</b>	Signed May 25, 2004 Ratified April 9, 2008
	<b>AUCPCC</b>	Signed Dec. 15, 2003 Ratified Aug. 2, 2006
	<b>SADCPAC</b>	Signed Aug. 14, 2001 Ratified July 9, 2004
<b>Last Updated</b>		November 17, 2014

<b>Region</b>		Africa
<b>Country</b>		<b>South Africa</b>
<b>2014 CPI</b>	<b>Rank</b>	67/175
	<b>Score</b>	44
<b>The Law on Bribery</b>	<b>Bribery of Domestic Officials</b>	<p>The Prevention and Combating of Corruption Act of 2004 (PCCAA) 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 (PCCAA art. 3(b)).</p> <p><u>Receiving a bribe:</u> It is a criminal offence 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 (PCCAA art. 3(a)).</p> <p>In addition to the general offense of corruption (PCCAA art. 3), the PCCAA 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"> <li>- Public officers (PCCAA art. 4)</li> <li>- Legislative authority (PCCAA art. 7)</li> <li>- Judicial officers (PCCAA art. 8)</li> <li>- Prosecuting authority (PCCAA art. 9)</li> </ul> <p>The punishment is subject to the discretion of the court responsible for sentencing:</p> <ul style="list-style-type: none"> <li>- high court - up to life imprisonment and fines</li> <li>- regional court - up to 18 years imprisonment and fines</li> <li>- magistrate court - up to five years imprisonment and fines</li> </ul> <p><u>Corporate liability:</u> A company is a separate legal entity apart from its members, directors and employees and can be prosecuted independently of its members, directors and employees 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 PCCAA may be sentenced to the payment of a fine of an unlimited extent. The PCCAA 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 the 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 PCCAA 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 up to up to ten years (PCCAA art. 34).</p>
	<b>Bribery of Foreign Officials</b>	Bribery of foreign officials is covered by the PCCAA, 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 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 (PCCAA art. 5). The degree of the penalty is subject to the discretion of the court.
	<b>Commercial Bribery</b>	Commercial bribery is covered by the PCCAA's provisions on the bribery of agents, which 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 (PCCAA art. 6). As with bribery of domestic officials, the degree of penalty is subject to the discretion of the court.

<b>Definitions</b>	<b>Government Employee</b>	<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 PCCAA).</p> <p>A “foreign public official” under the PCCAA 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. Unlike major international corruption legislation such as the U.S. Foreign Corrupt Practices Act, the PCCAA does not make any provision for the allowance of facilitation payments.</p>
	<b>Gratification (Gifts/ Entertainments/ etc)</b>	<p>The PCCAA prohibits any person from accepting or giving “any gratification” in order to act or induce another person to act corruptly. “Gratification” may be 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>
<b>Current Status</b>	<b>Enforcement Body</b>	<p>South Africa has a number of anti-corruption agencies with overlapping jurisdictions. The Special Investigating Unit (SIU) is dedicated solely to investigating corruption and reports directly to the president. As it lacks the authority to prosecute and make arrests, it coordinates with the National Prosecuting Authority (NPA). The NPA is South Africa’s primary prosecuting authority and consists of several units.</p> <p>While the South African Police Service (SAPS) themselves enjoy very little credibility as multiple police chiefs themselves have been convicted of bribery, there are specialized units within the SAPS that were formed to focus on the investigation of more sophisticated offenses. The primary corruption agencies within the SAPS are the Directorate for Priority Crime Investigation (the Hawks) and Commercial Crimes Unit.</p> <p>The Public Protector was established in terms of 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 in terms of the Public Protector Act 23 of 1994.</p> <p>The Public Protector has recently 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.</p>
	<b>Issues in Enforcement</b>	<ol style="list-style-type: none"> <li>1) Top-to-bottom corruption in the police force.</li> <li>2) Anti-corruption agencies are not sufficiently independent from political interference.</li> <li>3) Cases referred to the national/provincial departments for investigation are often ignored.</li> <li>4) Investigative agencies lack sufficient resources to conduct full-scale operations, and individual investigators lack experience and skill.</li> <li>5) 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.</li> <li>6) Despite being a comprehensive piece of legislation there have been very few prosecutions under the PCCAA. This has made it difficult to gauge how the courts will interpret certain aspects of the PCCAA.</li> <li>7) 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.</li> <li>8) As of March 2014, South Africa had not prosecuted any foreign bribery cases despite the legislative mechanisms to do so.</li> </ol>

	<b>Recent Movement</b>	The controversial Protection of State Information Bill has passed through Parliament and been submitted to the President for signature despite opposition from various parties; however, President Zuma is yet to sign the Bill into law.
<b>Participation in International Anti-corruption Conventions</b>	<b>OECD Convention</b>	Yes
	<b>UNCAC</b>	Signed Dec. 9, 2003 Ratified Nov. 22, 2004
	<b>AUCPCC</b>	Signed March 16, 2004 Ratified Nov. 11, 2005
	<b>SADCPAC</b>	Signed Aug. 14, 2001 Ratified May 15, 2003
<b>Last Updated</b>		December 11, 2014

<b>Region</b>		Asia Pacific
<b>Country</b>		<b>Australia</b>
<b>2014 CPI</b>	<b>Rank</b>	11/175
	<b>Score</b>	80
<b>The Law on Bribery</b>	<b>Bribery of Domestic Officials</b>	<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 <b>Federal Criminal Code</b>).</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>In addition, certain state legislation 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 someone, or disfavor someone in relation to the affairs or business of the agent’s principal. Similar provisions exist in other states and territories.</p>
	<b>Bribery of Foreign Officials</b>	<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, attempting etc bribery of a foreign official are also criminal offences 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; and (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.</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; (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>
	<b>Commercial Bribery</b>	<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.</p> <p>In addition, employers will typically have remedies against their employees who take secret commissions or other corrupt benefits under the general principles of equity, and may have</p>

		<p>contractual rights under the employment contract.</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>
Definitions	<b>Government Employee</b>	<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 etc. of state-owned enterprises and public international organizations.</p>
	<b>Gratification (Gifts/ Entertainments/ etc)</b>	<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 broad 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>
Current Status	<b>Enforcement Body</b>	<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 (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 skillbase and resourcing is 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.</p> <p>To the extent that Australian corporations are alleged to have engaged in the 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 corruption offenses, e.g. the Independent Commission Against Corruption in New South Wales.</p> <p>Prosecutions of federal offenses typically take place in federal courts. Prosecutions of state/territory offenses typically take place in state or territory courts. Australian courts are considered generally professional and free from corruption, if sometimes slow.</p>
	<b>Issues in Enforcement</b>	<ol style="list-style-type: none"> <li>1) The primary issue in enforcement of the law related to the bribery of foreign officials to date remains the failure to successfully prosecute any person 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.</li> <li>2) Federal prosecutors are arguably inadequately prepared for the complexity of major trials with an international dimension.</li> <li>3) AFP officers do not appear to have been provided with the skills and resources to pursue long-running, complex and multijurisdictional investigations. The resources of the AFP are in great demand in relation to higher profile crimes. e.g. terrorism and organized crime.</li> <li>4) The federal government has failed to publish guidelines or pass legislation which incentivize self-reporting, self-investigation, and co-operation with law enforcement.</li> </ol>

		<p>Unlike the US, UK and Germany, deferred prosecution agreements are not possible under Australian law, and Australian agencies have not been able to negotiate formal multijurisdictional settlements with prospective defendants.</p> <p>5) Where prosecutions relating to foreign bribery have succeeded, the convictions have not been recorded under the anti-bribery legislation. Instead, they have been recorded under broader legislative provisions which are not specific to bribery, and only after significant delay.</p>
	<b>Recent Movement</b>	<p>Domestic bribery has been the subject of significant media coverage and public concern in the past year. There has been a particular focus on the nexus between property developers and political parties, and between trade unions, organized crime and terrorism. The dramatic revelations of state-based anti-corruption agencies have led to calls for a standing federal anti-corruption commission, although it is not clear whether one will eventuate.</p> <p>In contrast, the issue of foreign bribery has been less prominent. Notwithstanding sporadic newspaper reports that companies' activities are the subject of investigation by the AFP, there does not appear to have any significant enforcement actions or policy developments. The first criminal prosecution under Australia's foreign bribery laws, in relation to Securrency, is ongoing.</p> <p>A consultation on whether the partial facilitation payments defense should be abolished was completed in early 2012. Since then, the federal Attorney General's Department has not indicated any intention to reform that or any other aspect of Australia's foreign bribery laws. Foreign bribery is not seen as a political or legislative priority.</p>
<b>Participation in International Anti-corruption Conventions</b>	<b>OECD Convention</b>	Yes
	<b>UNCAC</b>	Signed Dec. 9, 2003 Ratified Dec. 7, 2005
<b>Last Updated</b>		November 5, 2014

<b>Region</b>		Asia Pacific
<b>Country</b>		<b>China</b>
<b>2014 CPI</b>	<b>Rank</b>	100/175
	<b>Score</b>	36
<b>The Law on Bribery</b>	<b>Bribery of Domestic Officials</b>	<p>Criminal Law of the PRC (“Criminal Law”) punishes the following conduct:</p> <p><u>Offering a bribe</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</u>: A criminal penalty shall be imposed on entities (and their responsible personnel) which 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>Offering bribes to entities</u>: A criminal penalty shall be imposed on persons who give property to state organs, state-owned entities and people’s organizations to seek illegitimate gain (Criminal Law art. 391).</p> <p><u>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>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 them 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 &amp; 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>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>
	<b>Bribery of Foreign Officials</b>	A criminal penalty shall be imposed on persons giving property to foreign public officials/officials of public international organizations in order to obtain illegitimate commercial gain (Criminal Law art. 164 para. 2, 3 & 4).
	<b>Commercial Bribery</b>	<p>Commercial bribery means any bribery that occurs in the purchase or sale of goods or services. While it could arise in the context of bribery of domestic or foreign officials, it also includes the following:</p> <p><u>Receiving bribes by non-state functionaries</u>: A criminal penalty shall be imposed on non-state functionaries who, by taking advantage of their positions, solicit or accept property of a relatively large amount from others in exchange for benefits to the person providing the property (Criminal Law art. 163).</p> <p><u>Offering bribes to non-state functionaries</u>: A criminal penalty shall be imposed on persons who offer property of a relatively large amount to non-state functionaries for illegitimate gain (Criminal Law art. 164 para. 1, 3 &amp; 4).</p> <p>The Anti-Unfair Competition Law art. 8 imposes civil liabilities on business operators accepting or offering bribes in sales or purchase of commodities, and the Government Procurement Law art. 77(4) imposes civil liabilities on vendors who offer bribes or other illegitimate interests to purchasers or procurement agencies.</p>

<b>Definitions</b>	<b>Government Employee</b>	<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.</p>
	<b>Gratification (Gifts/ Entertainments/ etc)</b>	<p>Commercial bribery laws permit offering advertising gifts of modest value consistent with common commercial practice. In criminal cases, 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, time 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 position to reward the offeror.</p>
<b>Current Status</b>	<b>Enforcement Body</b>	<p>The People’s Procuratorate (the “Procuratorate”) is in charge of the investigation and prosecution of all bribery crimes, except for the crime of accepting bribes by 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 anti-bribery provisions in the Anti-Unfair Competition Law and the Government Procurement Law by taking administrative actions and imposing fines.</p>
	<b>Issues in Enforcement</b>	<ol style="list-style-type: none"> <li>1) The Procuratorate and the Police are only authorized to investigate and/or prosecute bribery crimes that meet certain threshold requirements. For instance, for the crime of offering a bribe to a state functionary, PRC authorities will only prosecute bribes of more than 10,000 yuan, unless an exception applies.</li> <li>2) The AIC’s investigative powers are limited compared to those of the Procuratorate and the Police. As a result, in major cases, the AIC may conduct its investigation in conjunction with the Police and rely on the power of the latter.</li> <li>3) The AIC’s interpretation of commercial bribery laws may vary between local jurisdictions and some local AIC offices can be very aggressive and stricter than U.S. enforcement authorities, especially with regard to what may constitute a bribe during dealings between commercial entities. Moreover, it is difficult to challenge the AIC’s interpretation of the commercial bribery laws. Whenever commercial bribery amounts to a crime, the AIC should transfer the case to the Procuratorate or the Police to initiate a criminal proceeding.</li> <li>4) Any off-the-book rebate or discount will be presumed to be a bribe, even when exchanged between entities.</li> <li>5) Chinese Communist Party members are subject to their own internal rules, which obligate them to report any gift with a value of over 100 yuan and to turn in any gift with a value of over 200 yuan.</li> <li>6) PRC authorities may follow up on FCPA enforcement actions. Following the Siemens FCPA settlement, for instance, one PRC official who accepted bribes from Siemens entities in China received the death penalty.</li> <li>7) Communist party members suspected of corruption, bad management or breaking with the party line are liable to be hauled before Central Commission for Discipline Inspection, which is set up to deal with internal party discipline and to monitor abuses.</li> </ol>
	<b>Recent Movement</b>	<ol style="list-style-type: none"> <li>1) Government enforcement remains uneven. However, the PRC government continues to profess that anti-corruption efforts are a top priority, and its enforcement efforts have noticeably increased over the past two years.. Former Premier Wen Jiabao said at the State Council’s annual conference on anti-corruption work in March 2012: “Corruption is the most crucial threat to the ruling party.” The PRC government announced that 29,000 people were convicted of bribery, embezzlement and malfeasance in 2011; also, in 2011, over 2,500 officials above the county level, 198 above the prefecture level and seven at the minister level were investigated. Since taking power at the end of 2012, President Xi Jinping has intensified charges of corruption not only against relatively low-ranking officials, but also against people in the highest reaches of the Party, State and military hierarchies. Xi's campaign against corruption is growing into one of the broadest in China's modern history, snaring</li> </ol>

		<p>thousands of businessmen and government officials. According to the official data of the Central Commission for Discipline Inspection (CCDI), over 74,000 officials have been disciplined for corruption during the period from December 2012 to September 2014, with the vast majority of those (over 70,000) being county-level officials or below. Foreign companies have also been caught up in the anti-graft campaign. In 2013, China aggressively investigated bribery practices in the health-care industry, accusing the U.K.'s largest drugmaker, GlaxoSmithKline (GSK), of paying medical staff to promote its products and boost sales.</p> <p>2) In November 2012, the Communist Party expelled Bo Xilai, a former member of the Central Politburo and Party chief of Chongqing, and Liu Zhijun, the former Railway Minister, and turned them over to judicial authorities for prosecution. Bo and his family members allegedly accepted bribes and Liu was accused of accepting RMB 64.6 million in bribes.</p> <p>3) In January 2013, the Supreme People's Court and the Supreme People's Procuratorate issued a new interpretation concerning the enforcement of criminal bribery cases, including provisions to encourage whistle blowing. For example, prosecutors can provide leniency or decline to prosecute if an employee discloses criminal information about or acts done by the company, prior to prosecution.</p> <p>4) In July 2014, Zhou Yongkang, a former member of China's all-powerful Politburo Standing Committee (PBSC), was officially placed under investigation for "serious disciplinary violations." Zhou, who served as the head of China's internal security apparatus, is the first former or standing PBSC member to be investigated for corruption.</p> <p>5) In 2014, China intensified efforts in its anti-corruption campaign to catch crooked officials who have absconded overseas. Chinese Foreign Minister Wang Yi said on October 2, 2014 that China stands ready to enhance cooperation with the US side in the criminal manhunt and recovery of illicit-money.</p>
<p><b>Participation in International Anti-corruption Conventions</b></p>	<p><b>OECD Convention</b></p>	<p>No (observer status)</p>
	<p><b>UNCAC</b></p>	<p>Signed Dec. 10, 2003 Ratified Oct. 27, 2005</p>
<p><b>Last Updated</b></p>		<p>November 10, 2014</p>

<b>Region</b>		Asia Pacific
<b>Country</b>		<b>Hong Kong</b>
<b>2014 CPI</b>	<b>Rank</b>	17/175
	<b>Score</b>	74
<b>The Law on Bribery</b>	<b>Bribery of Domestic Officials</b>	<p>The primary anti-corruption legislation in Hong Kong is the Prevention of Bribery Ordinance (Cap. 201) (“POBO”) which sets out a number of bribery related offences 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 crime, proceeds of crime and money laundering including the Crimes Ordinance (Cap. 200), the Organised 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).</p> <p><u>Offering a bribe:</u></p> <p>It is an offence 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 or reward for the performance or abstaining from performance of any act in his capacity as the Chief Executive or public servant (s 4 POBO).</p> <p><u>Soliciting or accepting a bribe:</u></p> <p>Any prescribed officer who solicits or accepts any advantage without the general or special permission of the Chief Executive of Hong Kong commits an offence (s 3 POBO).</p> <p>It is an offence 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 or reward for the performance or abstaining from performance of any act in his capacity as the Chief Executive or public servant (s 4 POBO).</p> <p>In addition to the above, there are a number of other offences 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 (ss 5-8 POBO).</p> <p><u>Extra-territorial application of POBO:</u></p> <p>The offences in relation to the bribery of the Chief Executive and public servants under s 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 offences, 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 “flavour” and that transactions between “principals” and “agents” (in effect, any commercial transaction) outside Hong Kong may be subject to scrutiny under Hong Kong law if the circumstances result in advantages being offered in Hong Kong.</p> <p><u>Penalties:</u></p> <p>Penalties for the above offences generally range from HK\$500,000 to HK\$1,000,000 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. The court may also order additional fines to be paid.</p>
	<b>Bribery of Foreign Officials</b>	<p>The POBO does not specifically stipulate an offence in relation to the bribery of foreign officials. However, as noted above, the Court of Final Appeal has indicated that the provisions prohibiting bribery of an agent (i.e. the commercial bribery provisions outlined below) may apply in situations where an advantage is offered in Hong Kong to a foreign official and the act or forbearance concerned is in relation to that foreign official’s duties outside of Hong Kong.</p>

	<b>Commercial Bribery</b>	<p>Bribery in the private sector is also prohibited by the POBO. It is an offence for any “agent” who, without lawful authorization or reasonable excuse, solicits or accepts any advantage as an inducement or reward for him to do or forebear from doing any act in relation to his “principal’s” affairs. Likewise, it is an offence to offer such advantages to an agent (s 9 POBO).</p> <p>Further, any agent who, with intent to deceive his principal, uses any document in which his principal is interested and which he knows to be materially defective commits an offence (s 9 POBO).</p>
<b>Definitions</b>	<b>Government Employee</b>	<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"> <li>(a) an employer;</li> <li>(b) a beneficiary under a trust;</li> <li>(c) a trust estate as though it were a person;</li> <li>(d) any person beneficially interested in the estate of a deceased person;</li> <li>(e) the estate of a deceased person as though it were a person; and</li> <li>(f) in the case of an employee of a public body, the public body.</li> </ul> <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>
	<b>Gratification (Gifts/ Entertainments/ etc)</b>	<p>"Advantage" is defined in the POBO to include money, gifts, loans, commissions, offices, contracts, services, favours and 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>
<b>Current Status</b>	<b>Enforcement Body</b>	Anti-corruption laws are primarily enforced by the Independent Commission Against Corruption (“ICAC”) in accordance with powers vested upon it pursuant to the Independent Commission Against Corruption Ordinance (Cap. 204).
	<b>Issues in Enforcement</b>	<p>The POBO does not expressly deal with the liability of companies for the acts of subsidiaries, employees and third parties. In practice, prosecution for bribery is generally against individuals.</p> <p>The terms “lawful authority” and “reasonable excuse” which are referred to in the bribery offences outlined above 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.</p>
	<b>Recent Movement</b>	Since its inception in 1974, the ICAC has been widely credited with low levels of corruption in Hong Kong. It is generally held in high regard for its investigatory skills, efficiency and impartiality. However, in recent times, it has become involved in some cases initiated by certain individuals who, according to critics, were motivated by political rather than legal concerns. In 2013, a former commissioner of the ICAC came under scrutiny relating to allegations of failure to comply with applicable laws regarding the giving of gifts and failure to comply with the ICAC's own procedures with respect to gifts and entertainment expenses. As of 1 December 2014, these allegations have not resulted in prosecution of any ICAC officials.
<b>Participation in International Anti-corruption Conventions</b>	<b>OECD Convention</b>	No
	<b>UNCAC</b>	<p>Signed: December 10, 2003</p> <p>Ratified: January 13, 2006</p>

	(Hong Kong is a participant by virtue of China's participation in UNCAC)
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<b>Last Updated</b>	December 1, 2014
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Region		Asia Pacific
Country		<b>Japan</b>
2014 CPI	Rank	15/175
	Score	76
The Law on Bribery	<b>Bribery of Domestic Officials</b>	<p>Anti-bribery provisions are included in the Penal Code (Act No. 45 of April 24, 1907) and the Act on Punishment of Public Officials' Profiting by Exerting Influence; Act No. 130 of November 29, 2000) (APPOPEI).</p> <p><u>Offering a bribe:</u></p> <ul style="list-style-type: none"> <li>- A person who gives, offers or promises to give a "bribe" (as provided for in Penal Code arts. 197 through 197-4) shall be subject to up to three years imprisonment with work or a fine of not more than 2.5 million yen (Penal Code art. 198).</li> <li>- A person who gives "property benefits" (as provided for in APPOPEI arts. 1 and 2) shall be subject to up to one year imprisonment with work or a fine of not more than 2.5 million yen (APPOPEI art. 4).</li> </ul> <p><u>Receiving a bribe:</u></p> <ul style="list-style-type: none"> <li>- A public officer who accepts, solicits or promises to accept a bribe in connection with his duties shall be subject to up to five years imprisonment with work; a public officer who agrees to perform an act in response to a request shall be subject to up to seven years imprisonment with work; and a public officer who agrees to perform an act in response to a request shall be subject to up to seven years imprisonment with work (Penal Code art. 197).</li> <li>- A member of the House of Representatives/Councilors or the assembly of the local governments who, in relation to some contracts to be entered by the central or local government (or by an entity where a half or more than a half of the amount of capital subscription is owned by the national 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 agreement to act in response to a request, shall be subject to up to three years imprisonment with work (APPOPEI art. 1; a sentence of up to two years imprisonment with work can also be imposed on the secretary of the member of the House of Representatives/Councilors who violates this provision (APPOPEI art. 2)).</li> </ul> <p>-</p>
	<b>Bribery of Foreign Officials</b>	<p>Legislation in the form of amendments to the Unfair Competition Prevention Law ("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 official duties, or to have the official use his position to influence another foreign official to commit or omit an act in relation to the performance of his official duties, in order to obtain or retain improper business advantage in the conduct of international business shall be subject to up to five years imprisonment with work and/or a fine of not more than 5 million yen (UCPL art. 18, para. 1 and art. 21, para. 2).</p> <p><u>Corporate liability:</u></p> <p>Corporate liability is covered only in the UCPL (bribery of foreign public officials).</p> <p>Where a representative, agent, employee or any other staff, etc. of a legal entity has committed a violation of Article 18 of the UCPL in connection with an 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>
	<b>Commercial Bribery</b>	Japan does not have any special law to prohibit bribery in the private sector.

<b>Definitions</b>	<b>Government Employee</b>	<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>
	<b>Gratification (Gifts/ Entertainments/ etc)</b>	<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 the precedents, 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, 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 Japanese anti-corruption laws, and no action is exempt from punishment under the title of small facilitation payment exemption.</p> <p>There are ethical codes (Cabinet Order No. 101 of March 28, 2000) that public officials must observe. The ethical codes 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 the cost to stakeholders; (iv) receiving services for free from stakeholders or at the cost to stakeholders; (v) receiving private equities from stakeholders; (vi) being entertained by stakeholders; (vii) playing golf with stakeholders; (viii) travelling with stakeholders (except for the purpose of public service); and (ix) causing stakeholders to do any of aforementioned acts. 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>
<b>Current Status</b>	<b>Enforcement Body</b>	The Public Prosecutor’s Office and the National Police Agency.
	<b>Issues in Enforcement</b>	<p>Since the offense of bribery of foreign public officials entered into force in 1999, there have only been 2 cases in which Japan obtained convictions for bribery of foreign public officials up until 2011 ; one in 2007 and the other in 2009. In this regard, the OECD Working Group on Bribery pointed out in its “Phase 3 Report on Implementing the OECD Anti-Bribery Convention in Japan” in December 2011 that “prosecution of two foreign bribery cases in 12 years appears very low in view of the size of the Japanese economy, and the Working Group continues to have serious concerns that Japan still does not appear to be actively enforcing its foreign bribery offense.” However, since then, Japan has prosecuted two foreign bribery cases. According to the news report regarding the first case , 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 a Chinese local government officials in return for overlooking the illegal operations of factories located in China. Regarding the second reported case, 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>
	<b>Recent Movement</b>	<p>In response to the criticism mentioned in the Phase 3 report in December 2011, Japan submitted a follow-up report and it was released publicly by the OECD Working Group in February 2014. Japan reported that it took several measures to investigate and prosecute foreign bribery more effectively. For example, the “framework” of effective coordination between special investigative divisions in the district prosecutors offices and relevant agencies, including Police, the National Tax Agency and the Securities and Exchange Surveillance Commission has been well established and executed in practice with respect to economic and financial crimes such as fraud, domestic bribery, tax invasion, securities fraud etc. In this report, Japan cited the above automobile muffler manufacturer case as an example of its success in strengthening coordination among law enforcement agencies.</p> <p>In addition, Japan established an Action Plan, which became operational in April 2014 and</p>

		<p>creates newly specialized resources for detecting and investigating cases of foreign bribery in the three largest district prosecutors' offices and each prefectural police office.</p> <p>In December 2014, the OECD Working Group will assess implementation of its outstanding recommendations, including the Ministry of Economy, Trade and Industry's role in enforcing Japan's foreign bribery offences.</p>
<b>Participation in International Anti-corruption Conventions</b>	<b>OECD Convention</b>	Yes
	<b>UNCAC</b>	Signed Dec. 9, 2003 Not ratified
<b>Last Updated</b>		December 17, 2014

<b>Region</b>		Asia Pacific
<b>Country</b>		<b>South Korea</b>
<b>2014 CPI</b>	<b>Rank</b>	43/175
	<b>Score</b>	55
<b>The Law on Bribery</b>	<b>Bribery of Domestic Officials</b>	<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 (Specific Crimes Act) and the Act on Anti-Corruption and the Establishment and Operation of the Anti-Corruption and Civil Rights Commission (Anti-Corruption Act).</p> <p><u>Offering a bribe:</u> It is a criminal offense for a person to promise, deliver or manifest a will to bribe a public official (Criminal Code art. 133); up to five 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 duties (Criminal Code art. 129); up to life imprisonment (the sentence varies according to the amount of bribery; if the amount is less than 30 million won, then up to five years imprisonment) and a fine which is not less than two times but not more than five times the amount of bribery (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); at least one year imprisonment and/or disqualification for up to ten years.</p>
	<b>Bribery of Foreign Officials</b>	<p>The bribery of foreign public officials is prohibited by the Act on Preventing Bribery of Foreign Public Officials in International Business Transactions (Foreign Bribery Prevention Act; FBPA), which entered into effect in 1999. Under the FBPA, it is an offense to give, offer or promise a bribe (any improper advantage) to a foreign public official in connection with the performance of the foreign public official's duties (FBPA art. 3.1). However, the FBPA makes an exception when such gifts are allowed under the local law to which a foreign public official belongs (FBPA art. 3.2). Individuals may be subject to up to five years imprisonment and/or a fine up to 20 million won (if the pecuniary advantage obtained by such offense exceeds 10 million won, then fine is up to the amount equivalent to double of 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 fine is up to the amount equivalent to double of the pecuniary advantage), and other penalties may be imposed on the actual individual offender (FBPA art. 4).</p>
	<b>Commercial Bribery</b>	<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, and the economic benefit is given as consideration for an illegal solicitation concerning his duty, one person and another person may be punished by imprisonment or by a fine (Criminal Code art. 357).</p>
<b>Definitions</b>	<b>Government Employee</b>	<p>Domestic public officials include actual employees of state and local governments, 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>With respect to foreign public officials, the FBPA mostly follows the OECD Convention to include 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>

	<b>Gratification (Gifts/ Entertainments/ etc)</b>	<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 lately 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>
<b>Current Status</b>	<b>Enforcement Body</b>	<p>The Anti-Corruption and Civil Rights Commission (ACRC), which is 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 investigate independently and must refer them to other agencies or solicit help from public prosecutors and the police.</p>
	<b>Issues in Enforcement</b>	<ol style="list-style-type: none"> <li>1) Weak witness and whistleblower protection laws (the effect of the new whistleblower protection law has yet to be seen).</li> <li>2) Low-level sanctions, especially for foreign bribery.</li> <li>3) General leniency of judiciary toward white-collar crimes.</li> </ol>
	<b>Recent Movement</b>	<p>The Act on the Protection of Public Interest Whistleblowers took effect on September 30, 2011, and was intended to provide greater protection to whistleblowers in relation to corruption in both the public and private sectors.</p> <p>A large-scale bribery scandal surrounding a savings bank came to light in early 2012 and led to the arrests of several major government officials, including an aide to the president. Former President Lee Myung-bak has been criticized for his weak efforts against corruption and for prioritizing pro-business policies over anti-corruption efforts, and it is generally understood that corruption has worsened during his administration.</p> <p>Recently, however, lawmakers have been deliberating a bill meant to increase the scope of, and put stronger penalties into, the new anti-corruption act. Since the April 2014 sinking of the Sewol ferry that killed 304 people, pressure has been mounting for the President Park Geun-hye government to clean up the public sector after the accident shone a light on the cosy relationship between officials and business. The new anti-corruption bill would enable public officials accepting bribes to be punished even if the bribe is not connected with their duties. The bill also covers kickbacks paid to family members of public officials, and closes the loophole of using a middle man to convey a bribe.</p>
<b>Participation in International Anti-corruption Conventions</b>	<b>OECD Convention</b>	Yes
	<b>UNCAC</b>	Signed December 10, 2003 Ratified March 27, 2008
<b>Last Updated</b>		November 6, 2014

<b>Region</b>		Asia Pacific
<b>Country</b>		<b>Taiwan</b>
<b>2014 CPI</b>	<b>Rank</b>	35/175
	<b>Score</b>	61
<b>The Law on Bribery</b>	<b>Bribery of Domestic Officials</b>	<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 November 2011, as well as the Criminal Code, which was enacted in 1935. 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 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 duty. However, the public official will be subject to more severe penalties if he violates his 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>
	<b>Bribery of Foreign Officials</b>	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 duty (Paragraph 3, Article 11 of the ACA).
	<b>Commercial Bribery</b>	In Taiwan, only the bribery of a “public official” will be subject to criminal liability.
<b>Definitions</b>	<b>Government Employee</b>	<p>“Public officials” is given the following meaning in the Criminal Code:</p> <ol style="list-style-type: none"> <li>1) 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).</li> <li>2) 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).</li> </ol>
	<b>Gratification (Gifts/ Entertainments/ etc)</b>	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.
<b>Current Status</b>	<b>Enforcement Body</b>	In Taiwan, a prosecutor is responsible for launching an investigation into any potential corruption cases and filing the indictment.
	<b>Issues in Enforcement</b>	<ol style="list-style-type: none"> <li>1) High-profile case: In March 2013, a prosecutor of Taiwan High Court Prosecutors Office was indicted and detained for an investigation into her alleged receipt of a bribe in the amount of over NTD 20 million.</li> <li>2) High profile case: In October 31 2014, a councilor of Taipei City was sentenced 10</li> </ol>

		years by Taipei district court for her receipt of a bribe in the amount of NTD 15 million.
	<b>Recent Movement</b>	In order to adopt the United Nations Convention against Corruption (UNCAC) domestically, Executive Yuan passed the draft of Enforcement Act of UNCAC on August 28 2014. However, the draft of Enforcement Act of UNCAC has not been passed by Legislative Yuan.
<b>Participation in International Anti-corruption Conventions</b>	<b>OECD Convention</b>	No
	<b>UNCAC</b>	No
<b>Last Updated</b>		November 10, 2014

<b>Region</b>		Europe
<b>Country</b>		<b>Austria</b>
<b>2014 CPI</b>	<b>Rank</b>	23/175
	<b>Score</b>	72
<b>The Law on Bribery</b>	<b>Bribery of Domestic Officials</b>	<p>In January 2013, the Austrian Criminal Code Amendment Act (also known as Anti-Corruption Law 2012) entered into force. Under the Austrian Criminal Code (StGB) the relevant regulations with regard to corruption can be divided into 2 groups:</p> <ol style="list-style-type: none"> <li>1) <u>Abuse of public power</u> (section 302 StGB) (“<i>Amtsmissbrauch</i>”) as a general provision: This provision covers in general the (knowingly) abuse of public power committed by officials of executive bodies (“<i>Beamte</i>”). The goal of this (non-specific corruption) provision is to guarantee an objective and impartial execution of Austrian law and can therefore only be committed by Austrian officials of executive bodies.</li> <li>2) <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 task is in accordance with or in conflict with his duties or if it was just given with the intention to influence the public official for (potential) future activities.</li> </ol> <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 condition for the improper performance or omission of a public function committed by a public official (for the definition of public official see below): It is not required that the public official executes the intended improper performance or omission of a public function.</p> <ul style="list-style-type: none"> <li>- individuals: up to three years imprisonment; if the advantage is more than EUR 3.000 – up to five years imprisonment and if the advantage is more than EUR 50.000 - up to ten years imprisonment (same criminal sanctions for § 307).</li> </ul> <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"> <li>- individuals: up to two years imprisonment; if the advantage is more than EUR 3.000 - up to three years imprisonment and if the advantage is more than EUR 50.000 - up to five years imprisonment (same criminal sanctions for § 307a).</li> </ul> <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"> <li>- individuals: up to two years imprisonment; if the advantage is more than EUR 3.000 - up to three years imprisonment and if the advantage is more than EUR 50.000 - up to five years imprisonment (same criminal sanctions for § 307b)</li> </ul> <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 improper performance of 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 to properly perform or omit the Performance of a public function.</p> <p>§ 307b <u>Granting of Benefits with the Intent to Influence</u> (“<i>Vorteilszuwendung zur Beeinflussung</i>”): Intentional offering, promising or giving an undue benefit to a public official or a third person under the condition of influencing the public activity of the public official. Since 2013 it constitutes a punishable offense to deliberately attempt to influence a public official (or an arbitrator) with a benefit or an undue advantage 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><b>Bribery of Foreign Officials</b></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 this constitutes an offense under the law of the Foreign State where the offence was committed. (s § 64 (1) (2a) StGB).</p> <p>However, with regard to § 302 StGB, only Austrian officials of executive bodies can commit an abuse of power.</p>
	<p><b>Commercial Bribery</b></p>	<p>As of January 2013, the provisions with regard to commercial bribery were revised. Since then, commercial bribery is punished more severely (the criminal sanctions were raised to up to five years imprisonment) and the former §§ 168d (for offering a bribe) and 168c (for receiving a bribe) were revised; both forms of corruption with regard to commercial bribery are now covered by § 309:</p> <p><u>Offering a bribe:</u> (§ 309 para 1 StGB) and receiving a bribe (§ 309 para 2 StGB): The Austrian Criminal Code prohibits both the giving and the receiving of commercial bribes in one single provision. 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, then this is not considered as bribery. That is a difference to the public officials, because conferring of benefits to public officials constitutes bribery in any case, even if the benefits were conferred for the proper performance in accordance with the duties of the public official.</p> <ul style="list-style-type: none"> <li>- individuals –up to two years imprisonment; if the advantage exceeds EUR 3.000 - up to three years imprisonment; if the advantage exceeds EUR 50.000 - up to five years imprisonment.</li> <li>- corporate entity - fines of between 15% to 20% of annual revenue.</li> </ul> <p>Since 2013 action against commercial bribery can be taken by the Public Prosecutor's Office for Economic Crime and Corruption (WKSTA) as well as 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><b>Definitions</b></p>	<p><b>Government Employee</b></p>	<p>As of January 2013, the definition of “public officials” under the Criminal Code includes (§ 74 para. 1 4(a)):</p> <ol style="list-style-type: none"> <li>1) member of an Austrian public representative body (as long as he/she votes or exercises his/her duties).</li> <li>2) anyone performing legislative, administrative, judicial or any other official government functions for Austria, a foreign state or an international organization.</li> <li>3) employee of an entity that is controlled by the General Accounting Office (“<i>Rechnungshof</i>”) or other similar bodies in Austria, which mainly provide services to the institutions mentioned above under 2).</li> <li>4) any organ of a company and any person working on the basis of an employment contract for such company: (i) in which one or more Austrian or foreign regional administrative authorities directly or indirectly hold(s) at least 50% of the nominal, share or equity capital; (ii) which is actually controlled by Austrian or foreign regional administrative authorities; or (iii) the activities of which are subject to inspection by the Austrian Court of Audit or provincial institutions similar to the Court of Audit or a similar international or foreign monitoring institution.</li> </ol> <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>

	<b>Gratification (Gifts/ Entertainments/ etc)</b>	All forms of benefits and personal advantages, including gifts, travel and entertainment, may be deemed bribery if they are 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 as 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.
<b>Current Status</b>	<b>Enforcement Body</b>	Austria has two specialized anti-corruption enforcement agencies. The Public Prosecutor's Office for Economic Crime and Corruption (WKStA) investigates and prosecutes malpractice, corruption and other economic crimes with a value of over 5 million euros.  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.
	<b>Issues in Enforcement</b>	<ol style="list-style-type: none"> <li>1) Partial immunity for certain public officials as defined in the Criminal Code.</li> <li>2) Rampant corruption in lobbying activities. (but see Lobby and Interest Representation Transparency Act below)</li> <li>3) 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 lead to impunity of the offender if he/she discloses information that is decisive to detect and investigate unknown cases with regard to corruption, are increasingly encouraging offenders to cooperate with the enforcement authorities.</li> </ol>
	<b>Recent Movement</b>	<p>As of January 1, 2013, the new Lobby and Interest Representation Transparency Act (Lobbying und Interessensvertretungs-Transparenz Gesetz; Federal Law Gazette I 64/2012) entered into force. 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 the 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 constitute an administrative offense (fines up to EUR 20.000). In 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>Recent movements with regard to case law: In a recent, high profile decision of the Austrian Supreme Court ("<i>Oberster Gerichtshof</i>"; 17 Os 20/13i) an Austrian politician who demanded a benefit of € 100.000,- to influence certain EU-directives in his function as Member of the European Parliament was condemned to a sentence of imprisonment of 3 years.</p>
<b>Participation in International Anti-corruption Conventions</b>	<b>OECD Convention</b>	Yes
	<b>UNCAC</b>	Signed Dec. 10, 2003 Ratified Jan. 11, 2006
<b>Last Updated</b>		November 10, 2014

<b>Region</b>		Europe
<b>Country</b>		<b>Belgium</b>
<b>2014 CPI</b>	<b>Rank</b>	15/175
	<b>Score</b>	76
<b>The Law on Bribery</b>	<b>Bribery of Domestic Officials</b>	<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"> <li>• <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 its position (as further described in Article 247 BCC), by making him offers, promises or by offering him any advantage of any kind, for himself or for a third party.</li> <li>• <u>Passive bribery</u> (receiving a bribe): defined as where a public official, directly or through intermediaries, solicits or accept offers, promises or any advantage of any kind (for himself or for a third party), in order to carry out or refrain from carrying out an act relating to its position (as further described in Article 247 BCC).</li> </ul> <p><u>Applicable penalties</u>: six months to five years imprisonment (depending on the circumstances of the crime, as described in Article 247 BCC) and a fine.</p> <p><u>Aggravated penalties applicable to</u>:</p> <ul style="list-style-type: none"> <li>• police officers and members of the public prosecutor office: penalty is the double of the “standard” penalty</li> <li>• arbitrators: penalty up to three years imprisonment and a fine</li> <li>• judges acting in their jurisdictional functions: penalty up to ten years imprisonment and a fine</li> </ul>
	<b>Bribery of Foreign Officials</b>	Identical to the provisions applicable to domestic officials (Article 250 BCC).
	<b>Commercial Bribery</b>	<p>Commercial bribery is governed by articles 504 <i>bis</i> and 504 <i>ter</i> BCC which prohibit both active and passive corruption:</p> <ul style="list-style-type: none"> <li>• <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 its position, by making him offers or promises, or by offering him any advantage of any kind (for himself or for a third party), this without prior knowledge and without authorization of, depending on the case, the Board of directors, the General Assembly, the principal or the employer.</li> <li>• <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 or accepts offers, promises or any advantage of any kind (for himself or for a third party) in order to carry out or refrain from carrying out an act relating to its position, this without prior knowledge and without authorization of, depending on the case, the Board of directors, the General Assembly, the principal or the employer.</li> </ul> <p><u>Applicable penalties</u>: six months to two years imprisonment and/or a fine.</p>
<b>Definitions</b>	<b>Government Employee</b>	<p><u>Public officials</u> are individuals exercising a public service function. This notion is broadly interpreted and covers any civil servants (at federal, regional or municipal level), persons exercising a public service function by election (e.g. members of the Parliament...), notary publics, bailiffs, judges, clerks of the courts.</p> <p>Individuals who are candidate for a public function or who make believe that they will exercise such public function also qualify as public officials (Article 246 § 3 BCC).</p>

	<b>Gratification (Gifts/ Entertainments/ etc)</b>	Bribery under Belgian law is broad and covers offers, promises and any advantage of any kind (even non pecuniary) proposed or accepted as a consideration aiming the person to carry out or refrain from carrying out an act relating to its position/function. Also covered: the offers, promises or advantages given to a third party (e.g. a relative of the public official)
<b>Current Status</b>	<b>Enforcement Body</b>	Local and Federal Police - Public Prosecutor's offices <u>Anti-corruption agencies:</u> Central Office for combating Corruption ("OCRC"- Federal police) Bureau of Ethical Administrative Conduct (SPF Budget and Management Control)
	<b>Issues in Enforcement</b>	"Real political will is often lacking, and measures in this field are taken only with the purpose of responding to the recommendations of the OECD and the Council of Europe (GRECO). Inadequacy of resources is also an important issue."(Progress Report 2010 of Transparency International)
	<b>Recent Movement</b>	"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 goal is to improve information exchange on a national and international level." (the Progress Report 2010 of Transparency International)
<b>Participation in International Anti-corruption Conventions</b>	<b>OECD Convention</b>	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 in Belgian law certain recommendations mentioned in the report on Belgium (phase 2 of 2005).
	<b>UNCAC</b>	Signed Dec. 10, 2003 Ratified Sept. 25, 2008
<b>Last Updated</b>		December 4, 2014

<b>Region</b>		Europe
<b>Country</b>		<b>France</b>
<b>2014 CPI</b>	<b>Rank</b>	26/175
	<b>Score</b>	69
<b>The Law on Bribery</b>	<b>Bribery of Domestic Officials</b>	<p>Bribery carries with it the potential for serious criminal penalties and sanctions, including imprisonment.</p> <p>French Law punishes both giving bribes (“active bribery”) and receiving bribes (“passive bribery”):</p> <p>Active bribery is inducing someone to carry out or abstain from carrying out an act relating to one’s public or private job or position, or by offering or making offers, promises, donations, gifts or advantages.</p> <p>Passive bribery is 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.</p> <p>“Trafficking in influence” is defined as abusing one’s real or alleged influence with a view to obtain a distinction, employment, a contract or any other favorable decision from public officials.</p> <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 its 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 of the Criminal Code;; active trafficking in influence: Articles 433-1 and 433-2 of the Criminal Code; passive trafficking in influence: Articles 432-11 and 433-2 of the Criminal Code;).</p> <p>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 of bribery and trafficking in influence (Active bribery: Article 434-9 of the Criminal Code; passive bribery: Article 434-9 of the Criminal Code;; active trafficking in influence: Article 434-9-1 of the Criminal Code; passive trafficking in influence: Article 434-9-1 of the Criminal Code;). Such infractions rise to the level of “obstruction of justice.”</p>
	<b>Bribery of Foreign Officials</b>	<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 18 648, 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 of the Criminal Code; active bribery: Article 435-3 of the Criminal Code) or judicial staff (passive bribery: Article 435-7 of the Criminal Code; active bribery: Article 435-9 of the Criminal Code) as well as active and passive trafficking in influence with international public officials (passive trafficking in influence: Article 435-2 of the Criminal Code; active trafficking in influence: Article 435-4 of the Criminal Code and judicial staff (passive trafficking in influence: Article 435-8 of the Criminal Code; active trafficking in influence: Article 435-10 of the Criminal Code).</p> <p>The 2007 Act also created two new infractions regarding bribery of a witness in a foreign or</p>

		<p>international judicial procedure (Article 435-12 of the Criminal Code) and threats against or intimidation of foreign or international judicial staff (Article 435-13 of the Criminal Code) that are counterparts to the domestic infractions in this field.</p>
	<p><b>Commercial Bribery</b></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 of the Criminal Code) and passive (receiving) (Article 445-2 of the Criminal Code) 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>Legal entities:</u></p> <p>If a representative or representative body of a company or other entity has engaged in bribery, the company (or another type of entity) may be held liable, even if the specific individual who is guilty of the prohibited conduct cannot be identified.</p>
<p><b>Definitions</b></p>	<p><b>Government Employee</b></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 invested 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 the EU Treaties are considered to be public international organizations for the enforcement of Section 1 offenses, entitled “offenses against the public administration.”</p>
	<p><b>Gratification (Gifts/ Entertainments/ etc)</b></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, use of an apartment, a cruise and other advantages.</p>
<p><b>Current Status</b></p>	<p><b>Enforcement Body</b></p>	<p>Three authorities are in charge of fighting corruption on a national level:</p> <ul style="list-style-type: none"> <li>- “Tracfin”: established in 1990; Article L.561-2 of the French Monetary and Financial Code compels some professions to report atypical financial transactions to Tracfin, which can then transfer the information to an investigating authority.</li> <li>- The “Service central de prévention de la corruption”: established by Law n°93-122 signed January 29, 1993, which serves as a technical support service provider for judges who deal with corruption cases.</li> <li>- The “Division nationale d’investigation financières et fiscales” (DNIFF) with its “Brigade centrale de lutte contre la corruption” (BCLC): established in 2004, this department handles, in particular, corruption investigations.</li> <li>- Police and Gendarmerie (national military police). The 2007 Act also significantly expanded the investigative powers of French authorities by allowing investigating authorities to use surveillance and undercover measures, telephone tapping in the investigation phase, as well as audio and video recording in certain locations or vehicles and to take preventive measures that, prior to the amendments, were only used in cases of organized crime.</li> </ul>

	<p><b>Issues in Enforcement</b></p>	<p>Following Phase III of the OECD’s assessment of the French anti-bribery system, the Ministry of Justice published a circular on February 9, 2012 which noted that:</p> <ul style="list-style-type: none"> <li>- Only three sentences regarding corruption of foreign public officials have been handed down in France since the adoption of the OECD Convention in 2000. As a result of the modest enforcement level, the circular encourages prosecutors to expand enforcement efforts.</li> <li>- Under French law, currently there is no sanction when a company does not have an anti-corruption program in place.</li> <li>- Public officials and auditors are required to report to the prosecutor all criminal acts they become aware of in the course of their duties.</li> <li>- The three-year statute of limitations period begins to run as soon as the criminal act first occurs.</li> <li>- The OECD’s assessment may lead to legislative changes.</li> </ul> <p>The adoption of an anti-corruption program and whistleblowing program in France often requires interactions with the Works Council. Furthermore, following the entry into force of the 2007 Act, French labor law was amended to protect whistleblowing employees who, in good faith, report either to their employer or to the judicial or administrative authorities acts of bribery they encounter in the course of performing their duties, from any form of disciplinary sanction (Article L. 1161-1 of the French Labour Code).</p>
	<p><b>Recent Movement</b></p>	<p>On October 23, 2012, the OECD's Phase III report on France was published by the OECD Working Group regarding the implementation of the OECD convention.</p> <p>The Working Group expressed concern that despite the very significant role of French companies in the international economy, only 33 foreign bribery proceedings had been initiated and five convictions – of which only one, not yet final, concerns a legal person – had been handed down since France became a party to the Convention in 2000. The Working Group is particularly concerned by the lackluster response of the French authorities in relation to companies sanctioned by other Parties to the Convention.</p> <p>However, the Working Group complimented the French government for reforms in the pipeline to guarantee greater independence of prosecutors.</p> <p>On April 17, 2013, a proposal aimed at banning anyone convicted of corruption, illegal taking of interest, trafficking in influence, favoritism or bribery from running in any election was submitted and will soon be debated in the French Parliament.</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"> <li>- 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).</li> <li>- The law has increased the potential penalties:             <ul style="list-style-type: none"> <li>• An individual convicted of bribery and trafficking in influence involving officials or the private sector under the 2007 Act, modified by the French 2013 Act on Tax fraud and economic and financial crime, faces a maximum of 5 to 10 years imprisonment as well as a fine from €500,000 to €1,000,000, depending on the offense (10 years imprisonment and €1,000,000 fine for active or passive bribery, 5 years imprisonment and €500,000 fine for active or passive trafficking in influence).</li> <li>• <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 €5,000,000 or 10 times the proceeds deriving from the offense.</li> <li>• The amount of the fine may be increased to twice the amount of the proceeds deriving from the offense.</li> </ul> </li> <li>- 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).</li> </ul> <p>Moreover, the law creates Article L. 1132-3-3 in the Labor Code, which protects</p>

		<p>employees from any sanctions for allegations made in good faith on criminal activities witnessed in the workplace or during the carrying out of an employee’s functions.</p> <p>The Legislator has created the Financial Public Prosecutor. Such prosecutor shall be entitled to initiate criminal proceedings and therefore prosecute complex offenses in corruption and trafficking in influence cases.</p> <p>- Finally, the law provides that associations fighting against corruption would be entitled to bring a criminal action to obtain damages (Article 2-23 of the Criminal Procedure Code).</p>
<b>Participation in International Anti-corruption Conventions</b>	<b>OECD Convention</b>	Yes
	<b>UNCAC</b>	<p>Signed Oct. 31, 2003</p> <p>Ratified July 11, 2005</p>
<b>Last Updated</b>		November 16, 2014

<b>Region</b>		Europe
<b>Country</b>		Germany
<b>2014 CPI</b>	<b>Rank</b>	12/175
	<b>Score</b>	79
<b>The Law on Bribery</b>	<b>Bribery of Domestic Officials</b>	<p>Anti-corruption provisions in Germany are found in the German Criminal Code (StGB), the EU Anti-Bribery Law (EUBestG), the International Bribery Law (IntBestG) and the International Criminal Court Law (IStGHGG). For domestic bribery:</p> <p><u>Offering a bribe:</u></p> <ul style="list-style-type: none"> <li>- Any person who offers, promises or grants a benefit to a public official, a person entrusted with special public service functions or a soldier in the Armed Forces for that person or a third person for the discharge of a duty shall be subject to imprisonment not exceeding three years or a fine (Section 333 (1) StGB).</li> <li>- Any person who commits the same offense but in relation to a judge or an arbitrator shall be subject to imprisonment not exceeding five years or a fine (Section 333 (2) StGB).</li> </ul> <p><u>Offering a bribe as an incentive to the recipients violating his official duties:</u></p> <ul style="list-style-type: none"> <li>- 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 performed or will in the future perform an official act and thereby violated or will violate his official duties shall be subject to three months to five years imprisonment. In less serious cases the penalty shall be imprisonment not exceeding two years or a fine (Section 334 (1) StGB).</li> <li>- The same offense but in relation to a judge/ arbitrator shall be subject to three months to five years imprisonment (for judicial acts performed) or from six months to five years imprisonment (for judicial acts in the future) (Sec. 334 (2) StGB).</li> </ul> <p><u>Receiving a bribe:</u></p> <ul style="list-style-type: none"> <li>- A public official or a person entrusted with special public service functions who demands, allows himself to be promised or accepts a benefit for a third person for the discharge of an official duty shall be subject to imprisonment not exceeding three years or a fine (Section 331(1) StGB).</li> <li>- A judge or arbitrator shall be subject to imprisonment not exceeding five years or a fine for the same offense but in relation to a judicial act (Section 331(2) StGB).</li> </ul> <p><u>Receiving a bribe as an incentive to violating one's official duties:</u></p> <ul style="list-style-type: none"> <li>- A public official or person entrusted with special public service functions who demands, allows himself to be promised or accepts a benefit for himself or for a third person in return for the fact that he performed or will in the future perform an official act and thereby violated or will violate his official duties shall be subject to six months to five years imprisonment. In less serious cases the penalty shall be imprisonment not exceeding three years or a fine (Section 332 (1) StGB).</li> <li>- A judge or an arbitrator shall be subject to one to ten years imprisonment for the same offense, but in relation to a judicial act. In less serious cases the penalty shall be from six months to five years imprisonment (Section 332 (2) StGB).</li> </ul>
	<b>Bribery of Foreign Officials</b>	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.
	<b>Commercial Bribery</b>	<p>Taking and giving bribes in commercial practice:</p> <ul style="list-style-type: none"> <li>- Any person who, as an employee or agent of a business, demands, allows himself to be promised or accepts a benefit for himself or another in a business transaction as consideration for according an unfair preference to another in the competitive purchase of goods or commercial services shall be subject to imprisonment of not more than three years or a fine (Section 299 (1) StGB).</li> </ul>

		<p>- Any person who for competitive purposes offers, promises or grants an employee or agent of a business a benefit for himself or for a third person in a business transaction as consideration for such employee's or agent's according to him or another an unfair preference in the purchase of goods or commercial services shall incur the same penalty (Section 299 (2) StGB).</p> <p>- The above also applies to acts in competition abroad (Section 299 (3) StGB).</p>
<b>Definitions</b>	<b>Government Employee</b>	<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 duties with due diligence (Section 11 (1) StGB).</p>
	<b>Gratification (Gifts/ Entertainments/ etc)</b>	<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>
<b>Current Status</b>	<b>Enforcement Body</b>	Public Prosecutor's offices (Staatsanwaltschaften), in cooperation with Federal Criminal Office (Bundeskriminalamt).
	<b>Issues in Enforcement</b>	StGB only provides for the punishment of natural persons. The Administrative Offenses Act (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 1 million euros (may be higher under certain circumstances) (Section 30 and Section 130 OWiG).
	<b>Recent Movement</b>	According to the Annual Report 2013 of the German Federal Office of Criminal Investigation the number of cases of corruption reported by police increased between 2009-2011 (from 6,354 to 46,795) but have decreased since then (in 2013, there were 8,605 cases). However, the number of actual corruption investigations in Germany in 2013 was 1,403.
<b>Participation in International Anti-corruption Conventions</b>	<b>OECD Convention</b>	Yes
	<b>UNCAC</b>	Signed Dec. 9, 2003; Ratified November 12, 2014
<b>Last Updated</b>		November 17, 2014

<b>Region</b>		Europe
<b>Country</b>		<b>Italy</b>
<b>2014 CPI</b>	<b>Rank</b>	69/175
	<b>Score</b>	43
<b>The Law on Bribery</b>	<b>Bribery of Domestic Officials</b>	<p>Under Italian law, anti-corruption provisions are included in the Italian Criminal Code (“<b>ICC</b>”). Namely, Articles 318-322-<i>bis</i> ICC criminalize bribery of domestic officers and foreign officers. Under Italian law, criminal liability refers only to individuals and not to corporations or other entities. Therefore, corporations are not criminally liable in case of bribery. 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 recently implemented new rules on anti-corruption matters. Namely, the anti-corruption law No. 190 of November 6, 2012 (hereinafter, the “<b>Anti-Corruption Law</b>”) has introduced new provisions aimed at improving transparency in the public sector and providing for new categories of bribery offenses. The Anti-Corruption Law has also introduced the <i>Autorità Nazionale Anti-Corruzione</i> (“<b>National Anti-Corruption Authority</b>”) which is granted with investigative and remedial powers.</p> <p>The overview below takes into account the provisions included in the Anti-Corruption Law.</p> <p><u>Passive bribery (receiving a bribe):</u></p> <ul style="list-style-type: none"> <li>- Improper Briber: When a public officer receives undue consideration (for himself or a third party) in exchange for the performance of the activities or powers pertaining to his office, he shall be punished with one to five years imprisonment.</li> <li>- Proper Bribery: When a public officer receives undue consideration for himself or for a third party for the performance of an unlawful act (i.e., omission or delay in acts relating to his office, commission of acts in breach of his public duties), he shall be punished with four to eight years imprisonment.</li> <li>- Bribery in Judicial Acts: If the bribery offense occurs in connection with the exercise of judicial functions or the bribery results in a wrongful sentence, criminal sanctions are significantly increased (i.e., up to 20 years imprisonment).</li> <li>- In addition to imprisonment, courts also seize good which constitutes the profit or the amount of the bribe, or when the seizure of the good is impossible, an amount equal to the profit or the amount of the bribe.</li> </ul> <p><u>Active bribery (offering a bribe):</u></p> <ul style="list-style-type: none"> <li>- Under the ICC, offering or promising to offer undue consideration or other benefits to a public officer is regarded as a criminal offense. In this case, the same criminal sanctions 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 sanctions applicable in the case the public officer accepts the bribe.</li> </ul> <p>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.</p> <p><u>Concussione:</u></p> <p>The ICC also provides for a different criminal offense called “<i>concussione</i>”. A public officer who abuses his powers to force an individual to unduly give money or other benefits to him or any third party is subject to six to twelve years imprisonment. The individual induced to provide the bribe is regarded as a victim, therefore no punishment is imposed on him.</p> <p><u>Induced briber:</u></p> <p>When a public officer or a person in charge of a public service, who, abusing his powers or office, induces an individual to give or promise money or any other benefit for himself or for a third party, he shall be punished with three to eight years 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 (punished</p>

		<p>with up to three years imprisonment). In addition to imprisonment, courts also seize the good which constitutes the profit or the amount of the bribe, or when the seizure of the good is impossible, an amount equal to the profit or the amount of the bribe.</p> <p><u>Illicit exercise of influence:</u></p> <p>Any person taking advantage of his 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 or her unlawful mediation with a public officer shall be punished with imprisonment up to three years. A criminal offense is also triggered by any person unlawfully giving or promising money or other benefits in exchange for unlawful mediation. 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.</p> <p><u>Corporate liability:</u></p> <p>Legislative Decree No. 231/2001 (the “<b>231 Decree</b>”) provides for the direct liability of a company where any of its directors, managers, legal representatives, managers de facto or employees commits 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 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, <i>inter alia</i>, monetary sanctions and to “disqualifying sanctions” including debarment from entering into contracts with public administrations/state authorities, seizure of the profit of bribery and prohibition on continuing to carry out such business.</p> <p><u>New measures to be adopted by public administration entities:</u></p> <p>Each public administration is required to adopt specific measures to prevent the occurrence of bribery offenses. Such measures include, <i>inter alia</i>, (i) the adoption of an anti-corruption plan, (ii) the appointment of a compliance officer, and (iii) the adoption of a code of conduct for public sector employees.</p> <p>The anti-corruption plan is aimed at checking each administration’s level of exposure to bribery risks. The plan shall identify all activities that entail a degree of risk and provide for the arrangements which have been made (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 who will also assess the plan's suitability and its compliance with the law.</p> <p>On September 11, 2013, the Italian Department of Public Administration approved the three-year (2014-2016) national anti-corruption plan for transparency and integrity. The plan sets forth general guidelines for implementing an anti-corruption action plan by each public administration. Many of them (including local administrations) have already submitted their action plan to the National Anti-Corruption Authority.</p> <p><u>Whistleblower protection:</u></p> <p>The Anti-Corruption Law provides for a specific protection for public officers who report corrupt behavior. Whistleblowers will not suffer dismissal, sanctions or discrimination for having reported corrupt behaviors. The whistleblower’s identity cannot be disclosed without express consent.</p>
	<p><b>Bribery of Foreign Officials</b></p>	<p>Pursuant to the Law No. 300/2000, which has introduced Article 322-bis of the ICC, bribery offenses now cover foreign officers as well. The criminal offenses pertaining to bribery of domestic officers (i.e., improper bribery; proper bribery, bribery in judicial acts, induced briber and inducement to bribery) 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>

	<b>Commercial Bribery</b>	Bribery in the private sector ( <i>i.e.</i> , bribery in private commercial dealings) is not regarded as a criminal offense under the ICC. Nevertheless, the Anti-Corruption Law has modified the Italian Civil Code by introducing a specific provision which criminalizes bribery acts committed by corporate officers. Namely, pursuant to Article 2635 of the Italian Civil Code as modified, bribers and corporate officers ( <i>i.e.</i> , director, general manager, executive, statutory auditor, or liquidator of a company, or any employee of a company acting under the direction or supervision of a corporate officer) of a company are subject to criminal punishment ( <i>i.e.</i> , up to three years imprisonment), if: (i) a corporate officer acts or omits to act in breach of the duties relating to his office or in breach of the duty of loyalty incumbent upon him, in exchange for the payment or the promise of money or other kind of advantage for himself/herself or for a third party; and (ii) the company suffers damages in consequence thereto.
<b>Definitions</b>	<b>Government Employee</b>	<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>i.e.</i>, any activity regulated by public laws, but characterized by the absence of the typical powers of the public functions).</p>
	<b>Gratification (Gifts/ Entertainments/ etc)</b>	“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 an economical valuation.
<b>Current Status</b>	<b>Enforcement Body</b>	<p>Bribery laws are enforced by Italian Public Prosecutors who are independent magistrates in the Italian judicial system. Investigations on bribery offenses are carried out by the police (<i>i.e.</i>, <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 conducts 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 activity to the Parliament on its activity and results in the fight against corruption in the public sector.</p>
	<b>Issues in Enforcement</b>	The statute of limitations regarding bribery offenses is very short: as a general rule, the statute of limitations is equal to the maximum sanction provided for each specific criminal offense, provided that it cannot be less than six years. This determines issues in connection with the enforcement of bribery laws. Several prosecutions for bribery have ended without convictions due to the operation of the statute of limitations.
	<b>Recent Movement</b>	None.
<b>Participation in International Anti-corruption Conventions</b>	<b>OECD Convention</b>	Ratified on December 15, 2000
	<b>UNCAC</b>	Ratified on October 4, 2009
	<b>Council of Europe Criminal Law and Civil Law Conventions on Corruption</b>	Ratified on June 13, 2013 – Entered into Force on October 1, 2013
<b>Last Updated</b>		November 10, 2014

<b>Region</b>		Europe
<b>Country</b>		<b>The Netherlands</b>
<b>2014 CPI</b>	<b>Rank</b>	8/175
	<b>Score</b>	83
<b>The Law on Bribery</b>	<b>Bribery of Domestic Officials</b>	<p>Active bribery is an offence pursuant to sections 177, 177a and 178 of the Dutch Criminal Code (DCC). Passive bribery is an offence pursuant to sections 362 to 364a DCC.</p> <p>Pursuant to sections 177 and 177a DCC, it is punishable to make a gift or promise or render a service to a public official with the aim of either inducing him to act or refrain from acting in the course of his employment or rewarding him for past acts or omissions. Section 177 regards acts or omissions in violation of the official's duties, whereas section 177a regards acts or omissions that are in line with his duties. It is also punishable to bribe a person of who is expected to be appointed as a public official, if the appointment takes place as expected. A maximum sentence of four years or a maximum fine of the fifth category (now set at EUR 81.000) applies to violation of section 177 DCC; a maximum sentence of two years and a maximum fine of EUR 81.000 applies to violation of section 177a DCC.</p> <p>Bribery of judges with the aim of influencing the outcome of any legal proceedings is punishable pursuant to section 178 DCC. This crime may lead to a maximum sentence of 6 years, or even 9 years in case the bribery takes place in connection with criminal proceedings, and a maximum fine of the fifth category.</p> <p>Pursuant to sections 362 and 363 DCC, a public official is punishable if he accepts a gift, promise or service when he knows or should have known that the gift or promise was made or the service was rendered with the aim of inducing him to act or refrain from acting in the course of his employment or rewarding him for past acts or omissions. As with active bribery, a distinction is made between acts or omissions in violation of or in line with the official's duties. The maximum sentence to the first is four years or a fine of the fifth category (now set at EUR 81.000), the maximum sentence applicable to the latter is two years or a fine of the fifth category. The same maximum sentences apply if a person of whom it is expected that he will be appointed as a public official commits these acts and the appointment takes place as expected.</p> <p>A judge that accepts or solicits a gift, promise or service is punishable pursuant to section 364 DCC with a maximum sentence of nine years and a fine of the fifth category. If the bribe concerns criminal proceedings, the maximum sentence is twelve years.</p> <p>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 maximum fine is set at EUR 810.000 instead of EUR 81.000.</p>
	<b>Bribery of Foreign Officials</b>	<p>The bribery of foreign officials is prohibited under the same provisions of the DCC that criminalize the bribery of domestic public officials.</p> <p>Sections 178a and 364a DCC define a foreign public official as a person exercising a public function for a foreign country or public international organization. Rewarding a former public official is also punishable.</p>
	<b>Commercial Bribery</b>	<p>Section 328ter DCC provides that it is punishable that an employee or agent who accepts or solicits a gift, promise or service in connection with an act or omission in the course of his employment or agency and hides accepting or soliciting this gift, act or service from his employer or principal in violation of principles of good faith. The active variant is also punishable. A maximum sentence of two years and a maximum fine of the fifth category applies.</p>

<b>Definitions</b>	<b>Government Employee</b>	The DCC does not provide a definition of the term 'public official'. Employees of the state, provinces and municipalities, as well as of public bodies are regarded as such. A person who has been appointed under the supervision and responsibility of the government to hold an employment with a public character and who performs part of the duties of the government is also regarded as such. Members of representative bodies, judges and members of the military are also considered public officials.
	<b>Gratification (Gifts/ Entertainments/ etc)</b>	In principle, public officials are not allowed to receive any kind of gifts. In practice, however, small gifts are usually allowed. There is no specific threshold for the value of the gift. Instead, a case-by-case approach is taken.
<b>Current Status</b>	<b>Enforcement Body</b>	The Dutch police has a specialized investigation service. It reports to the Board of Procurators-General, which leads the Public Prosecutions Office. It is responsible for investigating cases of both domestic and foreign corruption. The Public Prosecution Office is responsible for initiating criminal proceedings.
	<b>Issues in Enforcement</b>	While only a very small percentage of the Dutch population claims to have experienced or witnessed bribery, crime statistics only provide a partial picture, because there is no common system for recording corruption offences. Furthermore, many cases are dealt with internally. Nevertheless, in ninety per cent of the cases, prosecution of a suspect leads to a conviction.
	<b>Recent Movement</b>	In an evaluation report on the implementation and execution of the OECD corruption treaty published by the Organisation for Economic Cooperation and Development ( <b>OECD</b> ) in 2012, the OECD concluded that the Netherlands failed to vigorously act against foreign bribery and that more should be done to guarantee the compliance with the prohibition on bribery of foreign public officials. In connection therewith, the Minister of Justice introduced legislation with the aim to increase the possibilities to act against financial and economic offences, which includes a proposal to increase the maximum sentences on bribery. While the legislation was adopted by the Senate in November 2014, it is not yet known when the legislation will enter into force.
<b>Participation in International Anti-corruption Conventions</b>	<b>OECD Convention</b>	Yes
	<b>UNCAC</b>	Signed Dec. 10, 2003 Ratified Oct. 31, 2006
<b>Last Updated</b>		28 November 2014

<b>Region</b>		Europe
<b>Country</b>		<b>Poland</b>
<b>2014 CPI</b>	<b>Rank</b>	35/175
	<b>Score</b>	61
<b>The Law on Bribery</b>	<b>Bribery of Domestic Officials</b>	<p>In Poland, the giving and receiving of bribes (by providing, promising to provide or accepting) 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"> <li>- Material or personal benefit: 6 months to 8 years imprisonment (Art. 229 §1 Penal Code).</li> <li>- Substantial material benefit: 2 to 12 years imprisonment (Art. 229 §4 Penal Code).</li> <li>- Involves an act in violation with the law: 1 to 10 years imprisonment (Art. 229 §3 of Penal Code).</li> <li>- Less significant case: up to 2 years imprisonment (Art. 229 §2 Penal Code).</li> </ul> <p><u>Receiving a bribe</u>: Accepting a material or personal benefit or a promise of such a benefit in connection with the performance of a public function (Art. 228 Penal Code):</p> <ul style="list-style-type: none"> <li>- Material or personal benefit: 6 months to 8 years imprisonment (Art. 228 §1 Penal Code).</li> <li>- Substantial material benefit: 2 to 12 years imprisonment (Art. 228 §5 Penal Code).</li> <li>- Involves an act in violation with the law: 1 to 10 years imprisonment (Art. 228 §3 Penal Code).</li> <li>- Less significant case: up to 2 years imprisonment (Art. 228 §2 Penal Code).</li> </ul> <p><u>Corporate liability</u>: The Law on Liability of Collective Entities establishes corporate liability for bribery cases and sets forth a fine of PLN 1,000 to 5,000,000, however, not more than 3% of the 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. Pursuant to court statistics, in 2010, 14 entities were found guilty under the aforesaid Act, and fines between PLN 1,000 and PLN 3,000 were imposed.</p>
	<b>Bribery of Foreign Officials</b>	<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> <p>Offering a bribe (Art. 229 §5 Penal Code).</p> <p>Receiving a bribe (Art. 228 §6 Penal Code).</p>
	<b>Commercial Bribery</b>	<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 or her, or for not complying with an obligation which could lead to a material damage on 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"> <li>- Substantial damage: 3 months to 5 years imprisonment (Art. 296 §1 Penal Code).</li> <li>- Imminent danger of causing substantial damage to assets or business: (Art. 296 §1a Penal Code).</li> <li>- Material benefit: 6 months to 8 years imprisonment (Art. 296 §2 Penal Code).</li> <li>- Significant material damage: 1 to 10 years imprisonment (Art. 296 §3 Penal Code).</li> </ul> <p>Requesting or accepting a material or personal benefit or a promise of such benefit to a person in a managing position in an economic entity or being 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"> <li>- Leading to a financial or personal benefit for abusing the granted authority, or failing an obligation, or a breach of unfair competition law or not allowed preferential treatment of a counterpart: 3 months to 5 years imprisonment (Art. 296a §1 of Penal Code).</li> <li>- Significant damage: 6 months to 8 years imprisonment (Art. 296a §4 Penal Code).</li> </ul>
<b>Definitions</b>	<b>Government Employee</b>	The anti-corruption provisions mention “persons performing a public functions” (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 §15 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 the private bribery.
	<b>Gratification (Gifts/ Entertainments/ etc)</b>	The Penal Code uses the term “material or personal benefit” in Art. 228 and in Art. 229 Penal Code. It is clear that anti-corruption laws would apply in cases where money or monetary as well as other personal benefits were offered or promised to be offered.
<b>Current Status</b>	<b>Enforcement Body</b>	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 a one of specialized units of the police) was created to fight against organized crime with a cross-border character, drug and economic (including bribes) offences 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 offences, there are other enforcement bodies in Poland dealing with bribes such as the police and public prosecutors.
	<b>Issues in Enforcement</b>	<ol style="list-style-type: none"> <li>1) Immunity from prosecution for many holders of public office.</li> <li>2) There is no clear division of tasks among the three major anti-corruption agencies; they tend to work in competition with each other.</li> <li>3) As to “whistleblowing”, the Act of June 25, 1997 on Crown Witnesses can be applicable. The Act applies expressly to corruption crimes envisaged in Art. 228 (§1 and §3-6), Art. 229 (§1 and §3-5) and Art. 296a (§ 1, 2 and 4) Penal Code. This Act releases persons involved in crimes, if he or she prior to indictment gives to the enforcement bodies information on the details of the crime committed being helpful to disclose other offenders and crimes, and to prevent their committing and such information would be confirmed during the court proceedings.</li> </ol>
	<b>Recent Movement</b>	None.
<b>Participation in International Anti-corruption Conventions</b>	<b>OECD Convention</b>	Yes.
	<b>UNCAC</b>	Ratified by Poland, September 15, 2006.
<b>Last Updated</b>		November 10, 2014

<b>Region</b>		Europe
<b>Country</b>		<b>Russia</b>
<b>2014 CPI</b>	<b>Rank</b>	136/175
	<b>Score</b>	27
<b>The Law on Bribery</b>	<b>Bribery of Domestic Officials</b>	<p>The Russian Federation (“RF”) is in the process of developing and modernizing existing anti-corruption legislation which includes several clauses in the RF Criminal Code, the RF Code on Administrative Offences, the RF Federal Law “On Counteraction Against Corruption” and the RF Federal Law “On Public Service.” These legislative acts criminalize bribery of domestic and foreign officials as well as commercial bribery.</p> <p><u>Offering a bribe:</u> It is a criminal offense to bribe any domestic public official (a person performing a function of a public nature) if there is an intention to induce the domestic official to perform improperly a relevant function or activity, 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 bribing legal entities. In particular, “transfer of an unlawful remuneration/compensation” to a domestic or foreign official, officer of a commercial entity or officer of the 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>
	<b>Bribery of Foreign Officials</b>	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).
	<b>Commercial Bribery</b>	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).
<b>Definitions</b>	<b>Government Employee</b>	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 in state-owned corporations.
	<b>Gratification (Gifts/ Entertainments/ etc)</b>	<p>RF Federal Law “On Public Service” generally prohibits public officers to accept any 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 such gift.</p> <p>There is no exception for facilitation payments under the Russian legislation.</p>
<b>Current Status</b>	<b>Enforcement Body</b>	Different Russian law enforcement agencies are involved in anti-corruption enforcement activity, including the RF Ministry of Interior, the RF Investigation Committee and Federal Security Service. There is no single authority which undertakes the functions of a national anti-corruption enforcement agency.
	<b>Issues in Enforcement</b>	Russian authorities are generally focusing on low-profile domestic corruption investigations while systemic corruption activity remains outside of the enforcement scope. Russian authorities were visibly ignoring obvious grounds for undertaking domestic investigation in the cases where bribing of high-ranking Russian officials was admitted by the defendants in investigations outside of Russia (e.g., Daimler, HP and Siemens investigations).
	<b>Recent Movement</b>	Russian authorities adopted amendments to the criminal law that changed the focus of punishment for bribery from pure imprisonment to financial sanctions by introducing fines based on the amount of bribe, ranging from 25,000 Rubles to 500 million Rubles.

<b>Participation in International Anti-corruption Conventions</b>	<b>OECD Convention</b>	Yes
	<b>UNCAC</b>	<p>Signed Dec. 9, 2003</p> <p>Ratified May 9, 2006*</p> <p>Although UNCAC was signed by Russia in 2003 and ratified in 2006 (except for Article 20), Russia continues to oppose ratification of Article 20 of UNCAC depriving domestic enforcement from an obvious and effective anti-corruption tool.</p>
<b>Last Updated</b>		October 31, 2014

<b>Region</b>		Europe
<b>Country</b>		<b>Spain</b>
<b>2014 CPI</b>	<b>Rank</b>	37/175
	<b>Score</b>	60
<b>The Law on Bribery</b>	<b>Bribery of Domestic Officials</b>	<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 duties.</p> <p><u>Receiving a bribe:</u> It is a crime to accept propositions given by Spanish authorities or public servants relating to the granting of promises, presents and/or offerings with the purposes stated above. It is also a crime, from the standpoint of the Spanish authorities or public servants, to accept presents and/or offerings in exchange for the execution, in the performance of his duties, of an act or omission described above.</p> <p>Likewise, Articles 428 et seq. of the Penal Code set forth as prohibited influence peddling practices those by means of which (a) a civil servant or authority influences another public officer or authority; or (b) whoever influences a civil servant or authority taking advantage of any situation arising from his personal relation with him or with another public officer or authority, in order to obtain a resolution that may directly or indirectly generate a financial benefit for himself or a third party by means of requesting handouts, presents or any other remuneration from third parties, or accept offers or promises.</p> <p>These prohibitions apply to (a) Spanish authorities and public servants; and (b) any natural (whether acting on his behalf or on behalf of a company) or legal person based in Spain at the time of the corrupt practice.</p>
	<b>Bribery of Foreign Officials</b>	<p>Articles 419 et seq. of the Penal Code also apply to officers and civil servants of the EU as well as civil servants who are nationals of other member states of the EU.</p> <p>Article 445 of the Penal Code addresses corruption in international commercial transactions practices that involve foreign authorities or public servants.</p> <p>It is unlawful to:</p> <ul style="list-style-type: none"> <li>(i) corrupt or try to corrupt foreign authorities or public servants by means of promises, presents and/or offerings, with the aim of preserving or obtaining a contract or any other kind of irregular benefit in the context of international economic activities; or</li> <li>(ii) accept propositions given by foreign authorities or public servants relating to the granting of promises, presents and/or offerings with the purposes stated above.</li> </ul> <p>This prohibition applies to any natural (whether acting on his behalf or on behalf of a company) or legal person based in Spain at the time of the corrupt practice, and to Spanish nationals committing these practices in a foreign state where such practices are forbidden by law.</p>
	<b>Commercial Bribery</b>	<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"> <li>(i) to promise, offer or grant executives, directors, employees or collaborators of a trading company or any other firm, partnership, foundation or organization an unfair benefit or advantage of any nature, to favor him or a third party against others, breaching their obligations in acquisition or sale of goods or in hiring of professional services; or</li> <li>(ii) for executives, directors, employees or collaborators of trading companies, or firms, associations, foundations or 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.</li> </ul> <p>This prohibition applies to any natural (whether acting on his behalf or on behalf of a</p>

		company) or legal person based in Spain at the time of carrying out the conduct that constitutes the corrupt practice.
<b>Definitions</b>	<b>Government Employee</b>	<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 and receivers appointed by the court (Articles 24.2 and 423 of the Penal Code).</p> <p>“Officers of the EU” are those who (a) have civil servant status or that of a hired agent pursuant to the European Community Officers’ Statute or regime applicable to other agents of the EU; (b) are seconded to the EU by the Member States, or by any public or private body exercising the equivalent functions carried out by civil servants or other agents of the EU; (c) are members of bodies created pursuant to the EU Constituting Treaties, as well as the staff of such bodies, to the extent that the EU Officers’ Statute or regime to which other agents of the EU are subject is not applicable to them (Article 427 of the Penal Code).</p> <p>“Foreign civil servants” are those who (a) hold a legislative, administrative or judicial office in a foreign country, both by appointment or by election; (b) exercise a public duty for a foreign country, including a public body or a public company; or (c) are officers or agents of an international public organization (Article 445 of the Penal Code).</p>
	<b>Gratification (Gifts/ Entertainments/ etc)</b>	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 question for past domestic corruption offenses include money, a remuneration agreement, a painting and a mink coat.
<b>Current Status</b>	<b>Enforcement Body</b>	<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>
	<b>Issues in Enforcement</b>	<p>There has been no major prosecution in relation to relatively new offenses, such as corruption in international commercial transactions (Articles 445 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 5/2010 of June 22).</p> <p>Recent large-scale corruption cases have revealed a number of alleged corrupt practices affecting public funds and financing of political parties.</p>
	<b>Recent Movement</b>	<p>Organic Law 7/2012 of 27 December, has 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 from the former regulation.</p> <p>Law 19/2013 of 9 December, on transparency, access to public information and good governance also includes provisions on the sanctioning regime for breaching rules of 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 13 March, on the judiciary has implemented Spanish courts’ universal jurisdiction to prosecute corruption in international commercial transactions and corruption in private transactions.</p>
<b>Participation in International Anti-corruption</b>	<b>OECD Convention</b>	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

<b>Conventions</b>		in 2004, and a 2010 amendment of the Penal Code further conformed the Penal Code to the OECD Convention.
	<b>UNCAC</b>	Signed Sept. 16, 2005 Ratified June 19, 2006
<b>Last Updated</b>		November 7, 2014

<b>Region</b>		Europe
<b>Country</b>		<b>United Kingdom</b>
<b>2014 CPI</b>	<b>Rank</b>	14/175
	<b>Score</b>	78
<b>The Law on Bribery</b>	<b>Bribery of Domestic Officials</b>	<p>The United Kingdom has comprehensive anti-corruption legislation in the form of the Bribery Act 2010 (UKBA), which took effect from July 2011. The UKBA criminalizes bribery of domestic officials, bribery of foreign officials and bribery in a commercial context. Both 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”). 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 also 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"> <li>- <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.</li> <li>- <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 in respect of all 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.</li> </ul>
	<b>Bribery of Foreign Officials</b>	<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 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 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 influenced in his capacity as a foreign public official by the offer, promise or gift (Section 6, UKBA).</p>

	<p><b>Commercial Bribery</b></p>	<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>
<p style="writing-mode: vertical-rl; transform: rotate(180deg);"><b>Definitions</b></p>	<p><b>Government Employee</b></p>	<p>“Foreign public official” means an individual who:</p> <ul style="list-style-type: none"> <li>(a) 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);</li> <li>(b) 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</li> <li>(c) is an official or agent of a public international organization.</li> </ul>
	<p><b>Gratification (Gifts/ Entertainments/ etc)</b></p>	<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 de minimis level (an amount under which the payment will not be considered a bribe). No exception or affirmative defense for expenses in connection with promotional activities. No exception for facilitating payments.</p>
<p style="writing-mode: vertical-rl; transform: rotate(180deg);"><b>Current Status</b></p>	<p><b>Enforcement Body</b></p>	<p>Any of the Crown Prosecution Service, the Serious Fraud office and HMRC (UK tax authorities) can consent to the bringing of proceedings under the UKBA.</p>
	<p><b>Issues in Enforcement</b></p>	<p>The Act is still fairly recent legislation and there have been no major corporate prosecutions to date, leaving open the question of the SFO’s approach to the scope of business liability, particularly for third parties. The SFO has now brought its first Bribery Act prosecution against four individuals arising out of the promotion and selling of bio fuel investment products to UK investors.</p> <p>The possibility of agreeing to a Deferred Prosecution Agreement (DPA) with UK regulators was introduced into the United Kingdom by the Crime and Courts Act 2013. DPAs can be used for fraud, bribery and other economic crime. They apply to organizations, not individuals.</p> <p>Under a DPA, a prosecutor charges a company with a criminal offence but proceedings are automatically suspended. The company agrees to a number of conditions, such as paying a financial penalty, paying compensation and co-operating with future prosecutions of individuals. If the company does not honor the conditions, the prosecution may resume.</p> <p>The SFO has said that a DPA could be appropriate for bribery offences where the public interest is not best served by mounting a prosecution. Entering into a DPA will be a transparent public event and the process will be supervised by a judge. The SFO has also indicated they are unlikely to agree to a DPA where a company has delayed self-reporting, failed to co-operate fully with an investigation, or shows repeated misconduct or compliance failings.</p>
	<p><b>Recent Movement</b></p>	<p>In June 2014, it was confirmed that the UK government intends to publish a cross-departmental anti-corruption review focusing on the roles of the various UK regulatory authorities who have responsibility for corruption issues. The publication of the review has been delayed on a number of occasions and there have been several detailed press reports suggesting that one of the proposals in the review will be to abolish the FSO</p>

		and replace it with an 'FBI-style' national crime force. The review is currently expected to be published at the beginning of 2015.
<b>Participation in International Anti-corruption Conventions</b>	<b>OECD Convention</b>	Yes
	<b>UNCAC</b>	Signed Dec. 9, 2003 Ratified Feb. 9, 2006
<b>Last Updated</b>		November 15, 2014

Region		Middle East
Country		<b>Saudi Arabia</b>
2014 CPI	Rank	55/175
	Score	49
The Law on Bribery	<b>Bribery of Domestic Officials</b>	<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"> <li>- up to ten years' imprisonment;</li> <li>- fines of up to 1 million Saudi Riyals;</li> <li>- confiscation of any benefit derived from the offense; or</li> <li>- any or all of the foregoing penalties.</li> </ul> <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"> <li>- fines of up to ten times the amount of the bribe; and/or</li> <li>- prohibition of purchase contracts, execution of projects or any other work with Saudi ministries, government interests or public instrumentalities with juristic personality.</li> </ul> <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 with respect to a crime 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 confiscated by the authorities. The authorities may offer higher rewards in certain cases at their discretion.</p> <p>Exercising influence over public officials is prohibited by the CBL. 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>
	<b>Bribery of Foreign Officials</b>	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.
	<b>Commercial Bribery</b>	The CBL does not specifically prohibit commercial bribery. However, the law broadly defines "public officials" to include several non-state actors, as noted below.

<b>Definitions</b>	<b>Government Employee</b>	<p>The term “public official” refers to individuals who:</p> <ul style="list-style-type: none"> <li>(a) are employed, whether permanently or temporarily, by the state or public instrumentalities with juristic personality;</li> <li>(b) judges or experts appointed by the government or committees with judicial competence;</li> <li>(c) any person assigned by any government institution or any other administrative authority to perform a given assignment;</li> <li>(d) 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</li> <li>(e) presidents and directors of any organization mentioned in the foregoing paragraph (d).</li> </ul>
	<b>Gratification (Gifts/ Entertainments/ etc)</b>	<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 perform or cease or promise to a public official in exchange for following up on a transaction in any governmental department.</p>
<b>Current Status</b>	<b>Enforcement Body</b>	<p>The National Anti-Corruption Commission (NACC) was established under the National Anti-Corruption Commission Law, 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 His Majesty King Abdullah bin Abdulaziz. A number of other Saudi governmental agencies, including the Commission for Investigation and Prosecution and the General Auditing Bureau, also play important roles in implementing anti-corruption rules.</p>
	<b>Issues in Enforcement</b>	<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. Recently the NACC has also been considering inefficient job performance in the public sector (e.g., tardiness, failure to perform work functions, and leaving work early) as “corruption” that is under its prosecutorial remit.</p> <p>There have also been a number of enforcement proceedings in other jurisdictions relating to conduct in Saudi Arabia.</p>
	<b>Recent Movement</b>	<p>The NACC was established in 2011. Saudi Arabia ratified the United Nations Convention Against Corruption (UNCAC) on April 29, 2013.</p>
<b>Participation in International Anti-corruption Conventions</b>	<b>OECD Convention</b>	No
	<b>UNCAC</b>	<p>Signed Jan. 9, 2004</p> <p>Ratified April 29, 2013</p>
<b>Last Updated</b>		November 30, 2014

<b>Region</b>		Middle East
<b>Country</b>		<b>United Arab Emirates</b>
<b>2014 CPI</b>	<b>Rank</b>	25/175
	<b>Score</b>	70
<b>The Law on Bribery</b>	<b>Bribery of Domestic Officials</b>	<p>Bribery of domestic officials is prohibited under the Federal Penal Code (Fed. Law No. 3 of 1987), penal codes of individual Emirates (e.g., the Dubai Penal Code), the Federal Human Resources Law (Fed. Decree Law No. 11 of 2008), local human resources laws, and the Dubai Financial Fraud Law (Dubai Law No. 37 of 2009), among others.</p> <p><u>Offering a bribe</u>: It is a crime to offer or promise a public officer or servant a donation or advantage of any kind, in exchange for the officer committing or omitting an act in violation of his duties; up to five years imprisonment (Federal Penal Code art. 237).</p> <ul style="list-style-type: none"> <li>- Dubai only: It is a crime to offer or give gratification to a public servant for an official act; up to two years imprisonment and/or fine up to 3,000 dirhams (Dubai Penal Code art. 120).</li> </ul> <p><u>Receiving a bribe</u>: It is a crime for a public officer or servant to accept a donation, an advantage of any kind or a promise of such advantages,</p> <ul style="list-style-type: none"> <li>- Violation of duties: As consideration for committing or omitting an act in violation to his official duties; up to ten years imprisonment (Federal Penal Code art. 234).</li> <li>- Not a part of duties: As consideration for committing or omitting an act not a part of his official duties; up to five years imprisonment (Federal Penal Code art. 236).Dubai only: Public servant taking gratification for an official act; up to three years imprisonment and/or a fine of up to 5,000 dirhams (Dubai Penal Code art. 118).</li> </ul> <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 for 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 50,000 dirhams. Corporate criminal liability does not prevent the offender from being personally liable for the bribe (Federal Penal Code art. 65).</p>
	<b>Bribery of Foreign Officials</b>	The UAE does not currently have any federal laws that prohibit the bribery of foreign officials. However, The State Audit Institution (SAI) is currently working on the UAE's first anti-corruption law to demonstrate the UAE's commitments under the UNCAC (including prohibition on the bribery of foreign officials).
	<b>Commercial Bribery</b>	The Federal Penal Code criminalizes bribery in the private sector and 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 (Penal Code art. 236-bis). Offenses are punishable by up to five years imprisonment. However, the Penal Code neither criminalizes the act of giving or offering the bribe nor penalizes the offeror of the bribe.
<b>Definitions</b>	<b>Government Employee</b>	Under the Federal Penal Code, "public service employees" refers to individuals who are: (1) entrusted with public authority, or working in ministries and government departments; (2) members of legislative, advisory and municipal councils; (3) members of armed forces; (4) entrusted by public authority for a specific job; and (5) chairmen of boards, directors, and all staff of public bodies, institutions, public societies, and public welfare institutions. Employees of state-owned and state-controlled companies are also considered public service employees.
	<b>Gratification (Gifts/ Entertainments/ etc)</b>	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 bear the name of the offeror.
<b>Current Status</b>	<b>Enforcement Body</b>	There is a special anti-corruption unit under the Defense Ministry as well as within police departments. The SAI, an independent organization insulated from political interference, is primarily responsible for auditing spending and 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.
	<b>Issues in Enforcement</b>	In general, the UAE has been praised for its efforts in the fight against corruption. It has been reported that a team of international experts who reviewed the UAE's compliance with the United Nations Convention against corruption 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. However, there have been a number of high profile cases since the financial crisis.
	<b>Recent Movement</b>	It has been reported that the SAI is currently 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. As of November 2014, 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.
<b>Participation in International Anti-corruption Conventions</b>	<b>OECD Convention</b>	No
	<b>UNCAC</b>	Signed Aug. 10, 2005 Ratified Feb. 22, 2006
<b>Last Updated</b>		November 24, 2014

<b>Region</b>		North America
<b>Country</b>		<b>Canada</b>
<b>2014 CPI</b>	<b>Rank</b>	10/175
	<b>Score</b>	81
<b>The Law on Bribery</b>	<b>Bribery of Domestic Officials</b>	<p>The Canadian Criminal Code is the main source of law that prohibits the bribery of domestic officials. However, 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 RCMP).</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, act or omission in connection with any matter of governmental business; up to five years imprisonment (Criminal Code sec. 121(1)(a)).</p> <p><u>Receiving a bribe:</u> It is a crime for an official to receive a loan, reward, advantage or benefit or a promise for such as consideration for exercising the official’s position and influence in connection with governmental business on behalf of the person offering the bribe; up to five years imprisonment (Criminal Code sec. 121(1)(a)).</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"> <li>- Judicial officers and members of parliament or provincial legislatures: up to 14 years imprisonment (Criminal Code sec. 119).</li> <li>- Law enforcement officials and others involved in criminal law: up to 14 years imprisonment (Criminal Code sec. 120).</li> <li>- Municipal officials: up to five years imprisonment (Criminal Code sec. 123).</li> </ul> <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 people 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>
	<b>Bribery of Foreign Officials</b>	<p>The Corruption of Foreign Public Officials Act, SC 1998, c34, as amended, (CFPOA) is the Canadian law that specifically prohibits the bribery of foreign public officials. It criminalizes the act 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, an attempt to commit, being an accessory after the fact in relation to, or any counseling in relation to the offences under the CFPOA (CFPOA sec. 5).</p> <p>In early 2013, Canada significantly strengthened the scope of the CFPOA and penalties thereunder, including by adding a new offense which has expanded the grounds for criminal liability for corporations and their directors, officers and employees. As a result of the recent amendments to the CFPOA:</p> <ul style="list-style-type: none"> <li>- 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 offence took place, and even if there is no connection with Canada other than their nationality (CFPOA sec. 5);</li> <li>- The maximum penalty for individuals has been increased from five years to fourteen years imprisonment (CFPOA sec. 3(2) and 4(2));</li> <li>- Companies and their directors, officers and employees now face a separate criminal “books and records” offence for misrepresenting or concealing the bribery of foreign public officials in their recordkeeping (CFPOA sec. 4);</li> <li>- The bribery offense has been clarified to apply to all business activities, whether or not they are for profit (CFPOA sec. 2); and</li> <li>- The exception allowing “facilitation payments” (small payments made to an official for</li> </ul>

		<p>the purpose of securing the performance of routine administrative acts that are part of the official's duties or functions) will be eliminated at a future date to be determined by Cabinet order.</p> <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><b>Commercial Bribery</b></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 offence 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><b>Definitions</b></p>	<p><b>Government Employee</b></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). 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><b>Gratification (Gifts/ Entertainments/ etc)</b></p>	<p>Both the Criminal Code and the CFPOA prohibit gifts or benefits of any kind, regardless of how small or nominal they are, 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, s 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 (s. 11). The Conflict of Interest Act requires public officials to report gifts or advantages received that total more than \$200 (calculated over a 12 month period) from one source</p>
<p><b>Current Status</b></p>	<p><b>Enforcement Body</b></p>	<p>Police forces on all levels (federal, provincial, municipal) have the authority to investigate domestic public bribery cases under the Criminal Code. Prosecutions under the Criminal Code for domestic bribery are within the exclusive jurisdiction of provincial prosecutors. The Royal Canadian Mounted Police (RCMP), the Canadian national police, established in 2008 a national Anti-Corruption Unit, with two anti-corruption investigative teams (in Ottawa and in 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 (PPSC), a federal prosecutorial body which works directly with the RCMP on CFPOA investigations/prosecutions.</p>
	<p><b>Issues in Enforcement</b></p>	<p>Historically, jurisdictional limitations as well as lack of resources and prioritization in the RCMP led to weak enforcement and very few proceedings under the CFPOA. The recent 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 thirty active proceedings.</p>

	<b>Recent Movement</b>	As a result of the recent amendments to the CFPOA, the RCMP now has exclusive jurisdiction to lay CFPOA charges and works exclusively with the PPSC, a federal prosecutorial body. This should facilitate a more streamlined enforcement process (previously a provincial or federal prosecutor could carry out CFPOA prosecutions). In May 2014, Canada convicted and sentenced an individual to three years imprisonment, under the CFPOA, for conspiracy to bribe a foreign public official.
<b>Participation in International Anti-corruption Conventions</b>	<b>OAS Convention</b>	Signed June 7, 1999 Ratified June 1, 2000
	<b>OECD Convention</b>	Yes
	<b>UNCAC</b>	Signed May 21, 2004 Ratified Oct. 2, 2007
<b>Last Updated</b>		November 28, 2014

<b>Region</b>		North America
<b>Country</b>		<b>Mexico</b>
<b>2014 CPI</b>	<b>Rank</b>	103/175
	<b>Score</b>	35
<b>The Law on Bribery</b>	<b>Bribery of Domestic Officials</b>	<p>Bribery is punishable under Mexico's Federal Criminal Code (<i>Código Penal Federal</i>) while state criminal codes apply to local conduct.</p> <p><u>Offering a bribe:</u> It is a crime for any individual in a spontaneous fashion to give or offer money or any other gift to any public servant or to any third party, in order to induce the public servant to take any action or refrain from taking an action, whether fair or unfair, relating to his functions (Federal Criminal Code art. 222).</p> <p><u>Receiving a bribe:</u> It is a crime for a public servant to, indirectly or directly, unduly request or receive for his own benefit or for the benefit of a third party, money or any other gift or accept any promises, for the purpose of taking any action or refraining from taking an action, whether fair or unfair, relating to his functions (Federal Criminal Code art. 222).</p> <p>For either crime, depending on the amount of the advantage or promise, the sanctions range from three months to fourteen years imprisonment, fine of 30 to 1000 times the daily minimum wage in Mexico's Federal District (approximately 1,943 to 64,760 pesos) and destitution and disqualification to occupy public employment from three months to fourteen years.</p> <p><u>Public contracting bribery liability:</u> Under the Federal Anticorruption Law in Public Contracting, Mexican and foreign individuals and legal entities who participate in corrupt practices in federal public contracting, as well as Mexican individuals and legal entities who participate in corrupt practices in commercial international contracting transactions with the public sector of a foreign state or the granting of permits and concessions thereby can be subject to liabilities and penalties.</p> <p>Individuals may be subject to fines that are certain multiples of the daily minimum wage in Mexico's Federal District, ranging from 64,760 to 3.2 million pesos and legal entities may be subject to fines between 647,600 to 129.5 million pesos with the possibility of an additional 50% increase when the benefit received exceeds the amount of the fine, among other reasons. Also, individuals may be prohibited from participating in federal public contracting for up to eight years and legal entities may be prohibited for up to ten years. There is a fine reduction program that allows for a 50% to 70% discount of the penalty if the conduct is voluntarily disclosed or "confessed" before the initiation of the administrative penalty procedure and 50% of the penalty if the conduct is disclosed or "confessed" once initiated.</p> <p><u>Corporate liability:</u> In Mexico, only individuals can commit crimes. Thus, if a company is accused of bribing a public servant, it would be the individual managers or officers who could be subject to criminal liability, depending on their degree of knowledge and involvement with the crime; however, entities may be liable for damages caused by crimes committed by their employees, officials and representatives.</p> <p><u>Administrative liability:</u> Public servants may be subject to administrative regulations and the application of administrative sanctions when their personal interests raise conflicts with the public positions they hold. Public servants are prohibited from seeking or agreeing to perform, or refraining from performing, their duties in exchange for receiving, either directly or through a third party: (1) money; (2) real or personal property at lower price than market price; (3) gifts; (4) services; (5) jobs; or (6) fees or commissions (Federal Law of Administrative Accountability for Public Servants art. 8, paragraph XII).</p>
	<b>Bribery of Foreign Officials</b>	<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, with the purpose of obtaining or retaining for himself or for another party undue advantages in the development or execution of international business transactions, offers, promises or gives, whether by himself or through a third party, money or any other gift, whether in assets or services:</p>

		<p>(i) to a foreign public servant or a third party to have him negotiate or refrain from negotiating the performance or resolution of issues related to the functions inherent to his job, duty or commission;</p> <p>(ii) to a foreign public servant or a third party to have him perform or resolve any issue that is beyond the scope of the inherent functions of his job, duty or commission; or</p> <p>(iii) to any person to have him appear before a foreign public servant and require or propose to him that he perform or resolve any issue related to the inherent functions of his job, duty or commission.</p> <p>A foreign public servant may be (1) any person who holds a position, duty or commission in the legislative, executive or judicial body or any other autonomous public body at any level of government of a foreign state, whether appointed or elected; (2) any person who exercises a position of authority in a state-owned enterprise or organization of a foreign state; and (3) any officer or agent of a public international organization.</p> <p>Any person 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.</p>
	<b>Commercial Bribery</b>	<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.</p> <p>A person commits the crime of fraud (<i>fraude</i>) if he 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 from the person who is deceived (Federal Criminal Code art. 286).</p>
<b>Definitions</b>	<b>Government Employee</b>	<p>Public servants include elected representatives, members of the federal judiciary, officials and employees of the Mexican Congress, the Legislative Assembly of the Federal District, the Federal Public Administration, employees of institutions to which the Mexican Constitution grants autonomy and local and municipal public servants as provided by state Constitutions (Mexican Political Constitution art. 108).</p>
	<b>Gratification (Gifts/ Entertainments/ etc)</b>	<p>The Federal Criminal Code generally refers to <i>dádivas</i> or gifts (or otherwise an unlawful advantage other than money). The Federal Anticorruption Law in Public Contracting (<i>Ley Federal Anticorrupción en Contrataciones Públicas Federales</i>) also considers gifts (<i>dádivas</i>).</p> <p>Public servants working for the federal executive power branch shall not receive any gifts or gratifications that exceed ten times the daily minimum wage in Mexico’s Federal District. Guidelines on the reception and use of gifts, donations or benefits received by public servants are published in an administrative resolution issued by the Federal Ministry of Public Administration, and they apply to public servants who work for the Federal Public Administration (the executive branch), including employees of public ministries such as the Ministry of Finance and Public Credit as well as state-owned companies, such as Pemex (Mexico’s state-owned oil company) and CFE (Mexico’s state-owned energy company).</p> <p>According to the guidelines applicable to public servants, public servants, during the course of their employment and one year after their retirement, shall not receive personally or on behalf of any third party goods or services, which are free or transferred at a price lower than market price, from individuals or entities whose professional, commercial or industrial activities are directly linked to or supervised by such public servants and imply a conflict of interest. If a public servant receives a gift whose value exceeds the threshold requirements, he must report to the relevant internal control office within the following seven days for the government to make a determination on whether he may keep the gift.</p> <p>Notwithstanding the above, the Federal Criminal Code does not set any threshold or amount allowed for a gift and therefore “any gift” could qualify as bribery if conduct specifically matches the acts prohibited by the statute (Federal Criminal Code art. 222).</p> <p>Separate guidelines apply to public servants working for the federal judicial and legislative branches.</p>

<b>Current Status</b>	<b>Enforcement Body</b>	<p>Criminal liability enforcement may be sought by the Public Prosecutor.</p> <p>Administrative liability enforcement under the Federal Law of Administrative Accountability for Public Servants may be sought by the Internal Comptrollers' Office of the Ministry where the public servant works.</p> <p>Administrative liability enforcement under the Federal Anticorruption Law in Public Contracting, may be sought by the Federal Ministry of Public Administration. Other authorities shall have authority to seek penalty within the scope of their duties.</p>
	<b>Issues in Enforcement</b>	<p>To constitute a crime under Mexican law, the person's conduct must specifically meet all statutory requirements. The provisions will not be read to criminalize other actions that could be remotely construed to resemble bribery.</p> <p>The principle of "<i>indubio pro reo</i>" governs the Mexican criminal system and the prosecution must prove beyond a reasonable doubt that the offender is guilty.</p> <p>To establish proof is a challenging, and sometimes daunting, task under Mexican law. In order to bring a claim, a claimant must identify all available evidence. Evidence must be mentioned in the claim itself, unless the claimant can prove a lack of knowledge of its existence at the time of the filing of the claim.</p> <p><u>Most significant case of anti-corruption enforcement in Mexico during 2014:</u></p> <p>On February 11, 2014, Mexico's Ministry of Public Administration disqualified Oceanografía, a services provider of Pemex, to enter into contracts with the government for a period of 21 months and 12 days and imposed a fine of 24 million pesos due to violations of the Federal Anticorruption Law in Public Contracting. On November 6<sup>th</sup>, a federal judge ordered the annulment of the resolution that disqualified Oceanografía to receive public contracts, however, this ruling is not definitive and may be challenged by the Ministry of Public Administration. Oceanografía is currently in bankruptcy proceedings.</p> <p>In addition, Oceanografía was accused by Citibank of fraud committed against Banamex, which was sanctioned by the National Banking and Securities Commission (<i>Comisión Nacional Bancaria y de Valores</i>) with a 30 million pesos fine. The alleged fraud has also lead to an investigation by the SEC.</p>
	<b>Recent Movement</b>	<p>On March 12, 2014, the Specialized Prosecution Office for Crimes related to Acts of Corruption (<i>Fiscalía Especializada en materia de Delitos relacionados con Hechos de Corrupción</i>) was created. This special unit of Mexico's Attorney General's Office will have the power to investigate and prosecute crimes related to acts of corruption of Federal jurisdiction, as well as any other Federal offenses committed by public officials in the performance of a public employment, office or commission. The Agreement through which it was created will become effective on the date on which the Senate appoints the anti-corruption prosecutor in charge of this administrative unit. The Mexican Senate began the process for appointing the prosecutor that will be at the front of the unit in August 2014.</p> <p>On November 3, 2014, the National Action Party (<i>Partido Acción Nacional</i> or <i>PAN</i>), presented before the House of Representatives (<i>Cámara de Diputados</i>) its initiative for combating corruption. The initiative proposes to amend the Constitution and create a National Anti-corruption System. For such purposes, the initiative proposes to (i) create a National Council and a Citizen Committee; (ii) strengthen the auditing and investigative authority of the Ministry of Public Administration; (iii) widen the authority of the Chief Audit Office (<i>Auditoría Superior de la Federación</i>) and the Specialized Prosecution Office for Crimes related to Acts of Corruption; (iv) take away sanctioning powers from municipal, local and federal comptroller offices, and confer them to criminal judges and to a new accountability court to be created, and (v) replicate at state level the National Anticorruption System. The PAN has urged political forces for their support to get the initiative approved in the current session, for it to be included in next year's Federal Expenditure Budget.</p>
<b>Participation in International Anti-corruption Conventions</b>	<b>OAS Convention</b>	<p>Signed March 29, 1996</p> <p>Ratified May 27, 1997</p>
	<b>OECD Convention</b>	<p>Signed Dec. 17, 1997</p> <p>Ratified Dec. 14, 2005</p>

	<b>UNCAC</b>	Signed Oct. 31, 2003 Ratified Dec. 14, 2005
<b>Last Updated</b>		November 10, 2014

<b>Region</b>		North America
<b>Country</b>		<b>United States of America</b>
<b>2014 CPI</b>	<b>Rank</b>	17/175
	<b>Score</b>	74
<b>The Law on Bribery</b>	<b>Bribery of Domestic Officials</b>	<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 related to bribery may result from other legal theories such as conspiracy to engage in, or aiding and abetting, bribery.</p> <p><u>Federal law:</u> The general federal bribery statute (18 U.S.C. § 201) prohibits the direct or indirect corrupt giving, offering, or promising anything of value 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 to give anything of value to any other person or entity, 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 lawful duty (18 U.S.C. § 201(b)(1)). The statute also prohibits the seeking, accepting, or agreeing to receive or accept anything of value by any public official or person selected to be a public official for a corrupt purpose (18 U.S.C. § 201(b)(2)).</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). Another federal statute prohibits bribery intended to influence or reward an agent of an organization or governmental agency in connection with a transaction involving \$5,000 or more if such organization or agency receives more than \$10,000 per year in federal funds (18 U.S.C. § 666).</p> <p>Some federal statutes also cover bribery of state officials. The Mail Fraud statute 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 state officials from taking improper payments in exchange for making any official act (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>State law:</u> 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 the receiving or soliciting, as well as the giving or offering, of a bribe illegal.</p>
	<b>Bribery of Foreign Officials</b>	<p>The Foreign Corrupt Practices Act of 1977 (15 U.S.C. §§ 78m, 78dd-1 to -3, 78ff) (FCPA) is a federal statute that, broadly speaking, prohibits corrupt payments by certain covered persons to foreign government officials.</p> <p>The FCPA includes two distinct sets of provisions: (i) anti-bribery provisions and (ii) accounting provisions.</p> <p>The anti-bribery provisions prohibit corrupt payments to a foreign official, foreign political party, party official, or political candidate to influence such foreign official in the exercise of his 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 an adequate system of internal accounting controls (15 U.S.C. § 78m).</p> <p>The FCPA includes both criminal and civil penalties. Criminal penalties for individuals</p>

		<p>violating the FCPA’s anti-bribery provisions include fines of up to \$250,000 and imprisonment for up to five years. Individuals are also subject to civil penalties of up to \$16,000, which may not be paid by the individual’s employer or principal.</p> <p>Criminal penalties for companies violating the FCPA’s anti-bribery provisions include fines of up to \$2 million per violation. For each violation of the accounting provisions of the FCPA, penalties for a company include fines of up to \$25 million and penalties for individuals include fines of up to \$5 million and imprisonment for up to 20 years. 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 sought to gain by making the payment.</p>
	<p><b>Commercial Bribery</b></p>	<p>Commercial bribery is generally defined as offering or accepting a bribe to or from another person’s employee or agent in order to influence the offeree/recipient’s relationship with his employer. At the federal level, certain laws such as those in the liquor industry prohibit this type of conduct. In addition, commercial bribery occurring across state lines may violate federal law. The FCPA, however, does not prohibit bribes to officers, employees, or agents of private entities.</p> <p>A number of states have laws prohibiting commercial bribery. For example, Section 641.3 of the California Penal Code prohibits employees from soliciting, accepting, or agreeing to accept anything of value from a person other than his employer, corruptly and without the knowledge or consent of the employer, in return for using his 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 three years depending on the amount of the bribe.</p> <p>In addition to state laws prohibiting bribery of state officials, federal law often allows for federal prosecution of state officials who accept commercial bribes. The Mail Fraud statute often provides the basis for federal prosecution of state officials accepting commercial bribes (<i>see, e.g., U.S. v. Blagojevich</i>, 612 F.3d 558 (7th Cir. 2010), <i>U.S. v. Weyhrauch</i>, 538 F.3d 1237 (9th Cir. 2008)).</p>
<p><b>Definitions</b></p>	<p><b>Government Employee</b></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 will be nominated or appointed (18 U.S.C. § 201(a)(1), (2)).</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)). The U.S. Department of Justice (DOJ) and some federal courts have defined “instrumentality” broadly, covering any “entity controlled by the government of a foreign country that performs a function the controlling government treats as its own” (<i>U.S. v. Esquenazi</i>, 753 F.3d 912, 925 (11th Cir. 2014)).</p> <p>For purposes of state anti-bribery laws—as well as federal anti-bribery laws that cover state officials—the definition of “public official” and any related term depends on each state’s 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><b>Gratification (Gifts/ Entertainments/ etc)</b></p>	<p>Federal law distinguishes between bribes and gratuities. Bribery requires that the payor intend to influence an official act corruptly (i.e., that there be a quid pro quo), while an illegal gratuity requires only that the payment be for or because of an illegal act.</p> <p>The federal gratuity statute prohibits the direct or indirect 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</p>

		<p>gift must be made with a corrupt intent. As a result, a gift or entertainment that is not provided with the expectation of a quid pro quo for the award of business arguably would not generally 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><b>Current Status</b></p>	<p><b>Enforcement Body</b></p>	<p>The DOJ enforces domestic federal anti-bribery laws against federal and state officials.</p> <p>The DOJ and the U.S. Securities and Exchange Commission (SEC) both enforce the FCPA. The DOJ is responsible for criminal enforcement of the FCPA’s anti-bribery provisions 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 provisions and accounting provisions. The SEC has jurisdiction over “issuers,” as defined in the statute. When the SEC and the DOJ both have jurisdiction over an issuer, both agencies may bring FCPA enforcement actions against a defendant.</p>
	<p><b>Issues in Enforcement</b></p>	<ol style="list-style-type: none"> <li>1) U.S. authorities continue to engage in industry-wide FCPA sweeps. Recently, the DOJ and SEC began investigating the financial services industry’s interactions with sovereign wealth funds. Public disclosures and press releases from 2013 and 2014 showed that major international banks were under investigation for allegedly corrupt interactions with such funds.</li> <li>2) There were twenty-seven FCPA enforcement actions in 2013—nineteen initiated by the DOJ and eight initiated by the SEC. 2013 also saw a steep increase in corporate fines. Altogether, defendants paid \$720 million in penalties in 2013. The average penalty (\$80 million) and the adjusted average (\$28.5 million) were both much higher than previous years. In the first half of 2014, the DOJ and SEC brought thirteen FCPA enforcement actions and imposed over \$580 million in penalties.</li> <li>3) On May 29, 2013, in one of the largest monetary resolutions in FCPA history, Total S.A. agreed to pay the DOJ and SEC more than \$398 million in penalties and disgorgement in connection with payments made to intermediaries of an Iranian official in order to obtain and maintain oil rights in Iran.</li> <li>4) On January 9, 2014, Alcoa Inc. and Alcoa World Alumina LLC agreed to pay the DOJ and SEC \$384 million in penalties and disgorgement. The payment resolved charges that the company paid millions of dollars in bribes to the Kingdom of Bahrain, using an international middleman based in London. Alcoa’s payment resolution was one of the largest ever for an FCPA defendant.</li> <li>5) The DOJ has consistently urged federal courts to adopt a broad reading of the FCPA’s terms. In May 2014, the Eleventh Circuit adopted the DOJ’s broad interpretation of “instrumentality,” finding that the term includes any “entity controlled by the government of a foreign country that performs a function the controlling government treats as its own” (<i>U.S. v. Esquenazi</i>, 753 F.3d 912, 925 (11th Cir. 2014)). The <i>Esquenazi</i> decision will make it more difficult for defendants to argue that the meaning of “instrumentality” is an open question of law, and might lead to broader prosecutions from the DOJ.</li> </ol>
	<p><b>Recent Movement</b></p>	<ol style="list-style-type: none"> <li>1) The DOJ issued two opinion releases in 2014. Release 14-01 addresses the the question of who is a “foreign official” and Release 14-02 addresses successor liability in relation to pre-acquisition corrupt conduct of a foreign acquisition target..</li> <li>2) Typically, U.S. regulatory authorities have declined to describe the reasons for which declination decisions (i.e., decisions not to prosecute) were made. However, in 2012, the DOJ broke with precedent and described the reasons for its declination decisions in two cases. The rationale provided by the DOJ in these two cases indicate that U.S. regulatory authorities may be willing to decline to prosecute FCPA violations where companies demonstrate robust and effective compliance programs and provide significant cooperation to the regulatory authorities.</li> <li>3) There has been a notable decrease in the frequency with which U.S. regulatory authorities require a company to engage an independent monitor to assess compliance with a deferred prosecution agreement (DPA) or a non-prosecution agreement (NPA).</li> </ol>
<p><b>Participation in International Anti-corruption</b></p>	<p><b>OAS Convention</b></p>	<p>Signed June 2, 1996</p> <p>Ratified Sept. 15, 2000</p>

<b>Conventions</b>	<b>OECD Convention</b>	Yes
	<b>UNCAC</b>	Signed Dec. 9, 2003 Ratified Oct. 30, 2006
<b>Last Updated</b>		December 10, 2014

<b>Region</b>		South America
<b>Country</b>		<b>Argentina</b>
<b>2014 CPI</b>	<b>Rank</b>	107/175
	<b>Score</b>	34
<b>The Law on Bribery</b>	<b>Bribery of Domestic Officials</b>	<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"> <li>- 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 office; violations are subject to one to six years imprisonment (Section 258, Penal Code).</li> <li>- It is a crime to offer or confer a benefit on a public official solely due to the public official’s holding of office, even without intent to influence; violations are subject to one month to one year imprisonment (Section 259, Penal Code).</li> </ul> <p><u>Receiving a bribe:</u></p> <ul style="list-style-type: none"> <li>- It is a crime for a public official to request, receive or accept (whether directly or indirectly) a gift, a promise, money or any other thing of economic value in exchange for the performance, delay or failure to perform an act within the public official’s duty or office; violations are subject to one to six years imprisonment and lifetime disqualification from office (Sections 256 and 256bis, Penal Code).</li> <li>- It is prohibited for a public official to receive or otherwise accept benefits for the sole reason of his holding of office, without regard to intent to influence; violations are subject to one month to two years imprisonment and one to six years disqualification from office (Section 259, Penal Code).</li> <li>- Any person who intermediates an unlawful payment is subject to one to six years imprisonment and disqualification for life if applicable (section 256 bis, Penal Code).</li> <li>- It is prohibited for government officials to receive gifts, presents, benefits or privileges of any kind by reason or on occasion of the performance of their duties (Law 25,164 on Public Employment and its Regulations).</li> <li>- Under the Public Ethics Law, it is prohibited for public officials to receive any undue personal benefit related to the performance, delay or failure to perform any act inherent to their office. It is also prohibited for public officials to receive 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 (the value of which is not specified by law or regulation) as a courtesy or as a gesture of diplomatic protocol, the gifts must be recorded in a special registry and incorporated into the state’s property (Law 25,188 on Ethics in the Exercise of Public Office and its Regulations).</li> <li>- Under the Code of Ethics for Public Officials, it is prohibited for public officials to request, receive or accept any money, presents, benefits, favors or other privileges: (a) to perform, delay or fail to perform his duties; (b) to exert influence over another public official to perform, delay or fail to perform his duties; and (c) when the giving of money, present, benefit, favor or privilege would not have been made if the public official were not holding his office. There are several legal presumptions to determine whether the benefit is prohibited and the types of conduct that are not prohibited by law (Executive Order No. 41/1999).</li> </ul> <p><u>Judicial bribery:</u> Applicable penalties are enhanced if the person involved is a judge or a member of the Office of the Attorney General (<i>Ministerio Público</i>), in which case the person making the bribe may be subject to two to six years imprisonment and, if a public official, disqualified from office (Section 258, Penal Code).</p> <p>If the recipient is a judge or a member of the Office of the Attorney General (<i>Ministerio Público</i>), he is subject to four to twelve years’ imprisonment and lifetime disqualification</p>

		<p>(Section 257, Penal Code).</p> <p><u>Corporate liability:</u> As a general rule, criminal liability cannot be imposed on legal entities under the Penal Code. Nonetheless, if a convicted person acted as an officer or director of a legal entity and that legal entity benefited from the criminal act, the assets used to commit the crime and the benefit obtained from the crime may be seized (Section 23, Penal Code).</p>
	<p><b>Bribery of Foreign Officials</b></p>	<p>It is a crime to offer or to make a payment (including promises, favors or benefits) to public officials of a foreign state and to officials belonging to a public international organization in exchange for the official’s performance or failure to perform an act inherent to his office or to use the influence of his office in a transaction of an economic, commercial or financial nature (Section 258bis, Penal Code).</p> <p>Perpetrators are subject to one to six years’ imprisonment; lifetime disqualification from office applies if a public official commits the crime. This prohibition does not currently extend to foreign officials of territorial entities that do not constitute “states” or foreign public companies.</p>
	<p><b>Commercial Bribery</b></p>	<p>Argentina does not have national laws that prohibit 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 may be punished with imprisonment from one to six years, and disqualification for up to six years, for receiving money or other financial benefit in exchange for executing credit, financial or market transactions (Section 312, Penal Code).</p> <p>In addition, an officer of a company who receives a payment to obtain a benefit (whether for himself or for a third party) causing prejudice to the company may be charged with fraudulent administration, which is punishable by imprisonment from one month to one year.</p>
<p><b>Definitions</b></p>	<p><b>Government Employee</b></p>	<p>There is no unified definition of “public official” or “public employee.” Courts have generally interpreted “public official” to include employees of state-owned enterprises. According to the Penal Code, a public official or 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, made by an individual on behalf, or in the service, of the state or any of its entities, regardless of hierarchies.</p>
	<p><b>Gratification (Gifts/ Entertainments/ etc)</b></p>	<p>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.</p> <p>Any permitted gift is required to be recorded in a special registry and may be incorporated as state property. Notwithstanding the aforementioned exceptions, the Penal Code’s broad penalties contain neither exceptions nor interpretative guidelines.</p>
<p><b>Current Status</b></p>	<p><b>Enforcement Body</b></p>	<p>The Public Ethics Law called for the creation of a Federal Public Ethics Commission (“FPEC”) as an independent authority within the Federal Congress which was to be composed of members from all branches of the government. Its mission was to enforce the application of the Public Ethics Law (including the periodic submission of affidavits by public officials).</p> <p>However, the FPEC was never created. Instead, its functions have been partially and temporarily performed by the Anti-Corruption Office within the Ministry of Justice (“OA”) and the National Office for Administrative Investigations of the Prosecutor-General’s Office (“FIA”), the two principal agencies involved in the prevention and investigation of</p>

		<p>corruption crimes within the Executive Branch. The OA is focused on members of the Executive Branch, both centralized and de-centralized public administrative bodies, state-controlled/owned enterprises, and organizations that use public resources. Likewise, the FIA is a specialized body for the investigation of acts of corruption and administrative irregularities within the Federal Public Administration. While the OA has the authority to independently initiate investigations into domestic cases, it is allegedly susceptible to political influence and lacks independence.</p> <p>Recent amendments to the Public Ethics Law have now, among other things, revoked the creation of the FPEC but have not provided for the creation of another independent authority to undertake the role that had been 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 now 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 by the legislature to address these loopholes and to clarify appropriate controls on anticorruption, nepotism and conflict of interest involving public officials.</p>
	<p><b>Issues in Enforcement</b></p>	<ol style="list-style-type: none"> <li>1) Absence of an adequate and integrated set of provisions to enable the punishment of legal entities for acts of corruption.</li> <li>2) Inefficient judicial system and lack of enforcement. Judges and law enforcement officers are vulnerable to political pressure and lack of independence.</li> <li>3) Inadequacy of whistleblower protection (there is whistleblower protection for certain organized crimes, but corruption is not covered).</li> <li>4) 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.</li> <li>5) Inadequate new regime for the filing of affidavits, hindering control on anti-corruption, conflict of interest and the changes in the net worth of public officials,</li> <li>6) Lack of uniform and centralized provisions to provide clear definitions and interpretation guidelines, giving way to excessive judiciary discretion in anti-corruption enforcement.</li> <li>7) Lack of financial resources to conduct investigations and bring enforcement actions; inefficiency and corruption in the administration of federal funds.</li> </ol>
	<p><b>Recent Movement</b></p>	<p>The present administration is promoting revisions to the Penal Code and to the Criminal Procedure Code. Although both bills remain in debate, the Criminal Procedure Code is in a more advanced stage. An alternative bill to reform the Penal Code has been sponsored by members of the opposition party on matters of jurisdiction, corporate liability, and international bribery. It is too early to assess whether this bill will move out of committee and, if so, its form</p> <p>Another bill has been submitted to amend Section 303 of the Penal Code by aggravating the penalty for crimes of money laundering and terrorism financing committed by a public official. Another bill has been submitted to Congress stating that public officials may not acquire property, whether with or without valuable consideration, or be assignees, of any state-owned property. Congressional members of the opposition party(s) also sponsor this bill.</p> <p>Because Congress remains under the control of the current administration, bills sponsored by opposition party members are less likely to receive approval.</p>
<p><b>Participation in International Anti-corruption Conventions</b></p>	<p><b>OAS Convention</b></p>	<p>Signed March 29, 1996 Ratified Aug. 4, 1997</p>
	<p><b>OECD Convention</b></p>	<p>Yes. Congress approved the Convention by passing Law 25,319 of 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>

	<b>UNCAC</b>	Signed Dec. 10, 2003 Ratified Aug. 28, 2006
<b>Last Updated</b>		November 10, 2014

<b>Region</b>		South America
<b>Country</b>		<b>Brazil</b>
<b>2014 CPI</b>	<b>Rank</b>	69/175
	<b>Score</b>	43
<b>The Law on Bribery</b>	<b>Bribery of Domestic Officials</b>	<p>According to the Brazilian Criminal Code, Law No. 2,848 of December 7, 1940, the practice of 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 is said to have committed a criminal offense of active corruption if he is found to offer or give an undue advantage to a public official in order to induce him to practice, omit or delay an act pertaining to his functions; two to twelve years imprisonment and fine (Criminal Code art. 333).</p> <p><u>Passive corruption</u>: An individual is said to have committed a criminal offense of passive corruption if he is found to solicit or receive, for himself or for a third party, directly or indirectly, even if not in the exercise of his functions or prior to taking office, but as a result of such a position, an undue advantage or to accept a promise for such advantage; two to twelve years imprisonment and fine (Criminal Code art. 317).</p> <p><u>Extortion</u>: An individual is said to have committed a criminal offense of extortion if he is found to demand, for himself or for a third party, directly or indirectly, even if not in the exercise of his functions or prior to taking office, an undue advantage; two to eight years imprisonment and fine (Criminal Code art. 316).</p> <p><u>Influence peddling</u>: An individual is said to have committed a criminal offense of influence peddling if he is found to solicit, demand, charge or obtain, for himself 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 functions; two to five years imprisonment and fine (Criminal Code art. 332).</p> <p><u>Corporate Liability</u>: Under recently enacted Law No. 12,846, also known as the “Clean Company Law”, Brazilian companies engaging in domestic and international companies with a presence in Brazil engaging in bribery of public officials within Brazil may all be subject to civil and administrative liability, including any type of support to the bribe activity or its concealment and the use of third parties to execute or assist the bribe scheme (Articles 5 and 6).</p> <p>Civil and administrative liability is penalized by the restitution for damages, administrative fines and other civil penalties. Directors and officers are only liable to the extent of their fault. Joint and several liability for fines and the restitution for damages extends to the parent company, controlled entities of the company, affiliates and joint venture partners. Successor liability is applicable in mergers and incorporations, limited to restitution and the payment of fines up to the value of the assets transferred in the transaction. These limits may be ignored if the transaction was executed with fraudulent intent. (Article 4)</p> <p>The Clean Company Law 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 the illegal conduct. (Article 3)</p>
	<b>Bribery of Foreign Officials</b>	<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 Criminal Code and Law No. 9,613, of March 3, 1998, and came into force on June 11, 2002.</p> <p>As a result of Law No. 10,467, Criminal Code, Section XI now contains Articles 337-B to 337-D which appear as Chapter II-A (“Crimes committed by individuals against a foreign public administration”).</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 to put into practice, to omit, or to delay any official act relating to an international business transaction; one to eight years imprisonment and fine (Criminal Code art. 337-B).</p> <p>Passive trafficking of influence in an international business transaction is also a criminal</p>

		<p>offense; two to five years imprisonment and fine (Criminal Code art. 337-C).</p> <p><u>Corporate liability:</u> Under the Clean Company Law Brazilian companies engaging in foreign bribery may be subject to civil and administrative liability.</p>
	<b>Commercial Bribery</b>	<p>Brazil does not have any law that specifically prohibits bribery in the private sector. According to the Superior Court of Justice, the commission responsible for the reform of the Criminal Code has decided to include the crimes of active and passive corruption between individuals in the private sector with a predicted penalty of one to four years imprisonment and a fine. This reform will be carried out in order for Brazilian legislation to comply with the United Nations Convention against Corruption.</p>
<b>Definitions</b>	<b>Government Employee</b>	<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 (Criminal Code art. 327).</p> <p>While the Clean Company Law does not provide a definition of government employee, thus using the definition provided by the Criminal Code, it does define “foreign public entities” and “foreign public officials” in order to include, 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 law spells out a control test for determining whether companies with state ownership qualify as public entities for enforcement purposes, which includes employees of state owned entities. (Article 5, paragraphs 1, 2 and 3)</p>
	<b>Gratification (Gifts/ Entertainments/ etc)</b>	<p>Brazilian law provides that corruption may occur by the simple offering of an undue benefit to a public official. It does not specify, however, the manner by which the advantage is given. It does not provide expressly what such offering would comprise or whether the benefit would be a gift, travel or any other type of expense. The law only mentions an “advantage.” Accordingly, the interpretation of the legitimacy of such advantage would be subject to the court’s scrutiny on a case-by-case basis.</p>
<b>Current Status</b>	<b>Enforcement Body</b>	<p>Apart from being in charge of inspecting and detecting fraud in the use of federal public funds, the Office of the Comptroller General (CGU) is also responsible for developing mechanisms to prevent corruption. The idea is that, besides detecting corruption, the CGU has the role of acting proactively by developing means to prevent their occurrence. The CGU does so through its Corruption Prevention and Strategic Information Secretariat (SPCI). On January 24, 2006, the SPCI was created under Decree No. 5683. Prior thereto, corruption intelligence and prevention activities were carried out by different units of the CGU in a disperse manner. The SPCI serves to centralize all such efforts.</p> <p>The Federal Police and the Public Prosecutor’s Office may also conduct investigations. The Federal Judiciary will preside over proceedings involving public officials.</p> <p>Enforcement of the Clean Company Law is to be entrusted to the highest executive, legislative, or judicial authority affected by the conduct, giving rise to administrative enforcement as well as enforcement by the public prosecutor (<i>Ministério Público</i>) in cases where civil enforcement is sought. This means that enforcement actions can be brought by affected government regulators, such as IBAMA (environment), ANVISA (health), ANP (oil and gas), and many others. Because of this, interpretation and enforcement of the Clean Company Law is likely to proceed in haphazard and conflicting ways, according to differing procedures and subject to differing policy influences.</p>
	<b>Issues in Enforcement</b>	<p>There is no one specific body dedicated to bribery investigations; this makes bribery difficult to uncover unless it occurs on a large scale. Enforcement of the Clean Company Law is entrusted to the highest executive, legislative or judicial authority affected by the conduct, as well as enforcement by the public prosecutor at both the state and federal levels.</p> <p>While the Clean Company Law entered into effect on January 29, 2014, the law lacks the proper regulation from the Federal Executive Branch in the form of a Presidential Decree to detail how the law should be implemented. Such a decree should also outline the aspects of an effective compliance program which should be taken into consideration when sentencing violators. In spite of the lack of the official decree, the government has asserted that it could start to investigate companies even without the decree being published. Given the</p>

		broad enforcement mandate provided by the Clean Company Law, enforcement of the law prior to the release of the Presidential Decree clarifying how the law should be enforced could result in haphazard and conflicting enforcement.
	<b>Recent Movement</b>	<p>Brazil has recently seen the eruption of a high-profile kickback scheme in the state-owned oil company, Petrobrás. The investigation, known informally as the "Petrolão", focuses on Petrobras accepting bribes on inflated contracts in the company's refinery division and passing along some of that money to the political party of Brazil's president (the Workers Party) and its allies. As the alleged crimes were carried out before the Clean Company Law entered into force, the investigation and any eventual indictments will be based on the relevant anti-bribery and corruption sections of the Criminal Code.</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 full Senate approval and 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>
<b>Participation in International Anti-corruption Conventions</b>	<b>OAS Convention</b>	Signed March 29, 1996 Ratified July 10, 2002
	<b>OECD Convention</b>	Yes
	<b>UNCAC</b>	Signed Dec. 9, 2003 Ratified Jan. 31, 2006
<b>Last Updated</b>		November 14, 2014

<b>Region</b>		South America
<b>Country</b>		<b>Chile</b>
<b>2014 CPI</b>	<b>Rank</b>	21/175
	<b>Score</b>	73
<b>The Law on Bribery</b>	<b>Bribery of Domestic Officials</b>	<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 a performance or omission of an act within the authority of the official's role (whether in line with or in conflict with his duties): two months to three years imprisonment, and fines matching the type of performance requested (50% to 100% of the offered/agreed benefit for performance in line with the official's duty; 100% to 200% if in conflict and up to 300% 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 or for third parties.</p> <ul style="list-style-type: none"> <li>- in line with duty: a fee greater than what is appropriate given his office, or an economic benefit in return for the performance of an act in line with his duty: two to eighteen months imprisonment, two months to three years suspension from office and fine of 50% to 100% of the bribe (Criminal Code art. 248).</li> <li>- in conflict with duty: an economic benefit in consideration for the performance or omission of an act in contravention of his official duties, or for influencing another public employee in order to obtain from him a decision that can benefit a third party: eighteen months to three years imprisonment, absolute or special temporary impediments to holding public office, and fine of 100% to 200% of the bribe (Criminal Code art. 248-bis).</li> <li>- for the commission of certain crimes: an economic benefit in consideration for the commission of certain corruption crimes: eighteen months to three years, unless the committed crime has a higher penalty, special perpetual and absolute temporary or perpetual impediments to holding public office, and fine of 100% to 300% of the bribe (Criminal Code art. 249).</li> </ul> <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 of the law's felonies 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 crime based on 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>
	<b>Bribery of Foreign Officials</b>	<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 have also jurisdiction in cases of bribery of a foreign public official committed abroad by a Chilean national or a foreigner with habitual residence in Chile,</p>

		<p>which constitutes an exception to the principle of territoriality which is 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 the business deal) to the offeror of the bribe. Violators may face eighteen months to five years imprisonment, restrictions on holding public office and a fine ranging from 100% to 200% 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 approx. USD \$80).</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 could 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, disgorgement, etc.</p>
	<b>Commercial Bribery</b>	Chile does not have laws that prohibit commercial bribery, although cases may sometimes be pursued civilly under general tort claims.
<b>Definitions</b>	<b>Government Employee</b>	<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>
	<b>Gratification (Gifts/ Entertainments/ etc)</b>	In general, any type of gift or benefit is prohibited as long as it is granted in order to influence the official or as consideration for a performance or an omission of performance. However, the administrative law allows for gifts that are consistent with customary courtesy, good manners and rules of protocol.
<b>Current Status</b>	<b>Enforcement Body</b>	<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 in May 2003). In such proceedings the State Defence Council may act as complainant, defending the interests of the State.</p> <p>The Republic's General Comptroller's Office, which is an independent agency responsible for enforcing all administrative offenses and headed by the Comptroller, will determine if the behavior violated public official's duties and impose administrative sanctions. These sanctions may be appealed in court.</p>
	<b>Issues in Enforcement</b>	<ol style="list-style-type: none"> <li>1) Weak whistleblower protection (weak protection in public bribery, no protection in commercial bribery).</li> <li>2) Decentralized organization of enforcement.</li> <li>3) Due to novelty of the law on Criminal Liability of Corporations, there have not been many cases to date where anti-corruption laws have been enforced against legal entities. No case has faced a trial nor have compliance programs implemented by companies, which may exempt from liability if they are adequate, been tested in such context.</li> </ol>
	<b>Recent Movement</b>	After more than 10 years of legislative discussion, Congress has passed a law on lobbying in January 2014, making Chile the first country in Latin America to issue legislation on lobbying disclosure. The law shall enter into force by November 28, 2014. This new regulation provides for a voluntary register of lobbyists and imposes public officials the burden of having to disclose meetings with lobbyists.
<b>Participation in International Anti-corruption Conventions</b>	<b>OECD Convention</b>	Yes. Chile has ratified the OAS Inter-American Convention Against Corruption on October 27, 1998.
	<b>UNCAC</b>	Yes. Chile has ratified the United Nations Convention against Corruption on September

		13, 2006.
<b>Last Updated</b>		November 10, 2014

<b>Region</b>		South America
<b>Country</b>		<b>Colombia</b>
<b>2014 CPI</b>	<b>Rank</b>	94/175
	<b>Score</b>	37
<b>The Law on Bribery</b>	<b>Bribery of Domestic Officials</b>	<p>Offering and receiving bribes are criminal offenses under the Colombian Criminal Code (Law 599 of 2000) as modified by Law 1474 of 2011.</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 benefit or for the benefit of another person, directly or indirectly, (i) for purposes of withholding or omitting an act under his responsibility; (ii) to perform an act against his duties as public servant; or (iii) to perform an act that shall be performed by such public servant in connection with his duties; punishable by imprisonment ranging between 32 and 144 months, fines and elimination of rights associated with public office (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 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 his decision/knowledge; punishable by imprisonment ranging between 32 to 90 months, fines and elimination of rights associated with public office (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 responsibility; (ii) to perform an act against his duties as public servant; or (iii) to perform an act regarding acts that shall be performed by such public servant in connection with his duties; punishable by imprisonment ranging between 48 and 108 months, fines and elimination of rights associated with public office (Criminal Code art. 407).</p> <p><u>Corporate liability:</u> Independent of the individual criminal liabilities which may apply, the measures established under article 91 of Law 906 of 2004, shall apply to legal entities that seek to benefit from the performance of criminal offenses against the Public Administration, or any other punishable conduct related with public funding, performed by its legal representative or its administrators, either directly or indirectly. Article 91 of Law 906 of 2004 establishes several sanctions which would be applicable to the legal entities. The following are the sanctions described therein: suspension of activities, cancellation of the company's registry before the Chamber of Commerce and temporary closure of its commercial establishments.</p> <p>Regarding criminal offenses against the Public Administration or offenses that affect public funding, the relevant affected state-owned entities may join those companies which participated in the performance of such criminal offenses, when responding to any tort or civil damages claim arising from the crime.</p> <p>In accordance with article 86 of Law 222 of 1995, the Superintendence of Companies may impose pecuniary fines of 500 to 2000 monthly legal salaries when, with the knowledge of its legal representatives, or any of its administrators or with acquiescence in any of the aforementioned, the company has participated in the performance of a criminal offense against the Public Administration or public funds (Article 34 of Law 1474 of 2011).</p>
	<b>Bribery of Foreign Officials</b>	<p>It is a crime to give or offer money, objects with pecuniary value or other benefits to a foreign public servant, for his benefit or for the benefit of another person, directly or indirectly, for purposes of withholding, omitting or delaying an act related with an economic or commercial transaction; punishable by imprisonment ranging between nine and fifteen years and fines (Criminal Code art. 433). For the purposes of determining which is a foreign public servant, paragraph of Article 433 of the Criminal Code states that the foreign public servant is any person with a legislative, administrative or judicial position in a foreign country which has been elected or appointed, and any other person which performs a public function for a foreign country (either within a government owned organization or a public utilities/services company). In addition, any person who works in an international organization will be recognized as a foreign public servant (i.e., Inter-American Development Bank, United Nations, etc.).</p>

	<b>Commercial Bribery</b>	Law 1474 of 2011, 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.
<b>Definitions</b>	<b>Government Employee</b>	<p>This concept is included in the 1991 Constitution and article 20 of the Criminal code. According to the Colombia Constitution, public servants are members of public entities, employees and workers of the state and of their territorially decentralized branches and service branches (art. 123).</p> <p>A public servant performs a service to the state or the community.</p> <p>Public services include those inherent to the social purpose of the state (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 as public servants: (i) members of the military; (ii) members and employees of the Central Bank; (iii) citizens that are a part of the National Citizen Commission of the Fight Against Corruption; and (iv) persons who manage government owned resources as per described under Article 338 of the Constitution.</p>
	<b>Gratification (Gifts/ Entertainments/ etc)</b>	<p>The Colombian Criminal Code (art. 141 through 143), in connection with bribery, includes benefits (presumably anything of value) and any promise with remuneration (“<i>utilidad</i>”).</p> <p>However, there are no specific regulations which encompass gratification gifts, entertainment expenses and other related expenses. For the aforementioned, it will be required to determine, on a case by case scenario, if the specific expense is considered appropriate or not. For this purpose, it is highly recommended to discuss the gift or attention with a local lawyer specialized in management of anti-corruption regulations.</p>
<b>Current Status</b>	<b>Enforcement Body</b>	<p>The Public Ministry Office has the highest responsibility for overseeing the discipline of public servants. The Attorney General investigates all offenses under the Criminal Code and prosecutes before Criminal Courts. The General Comptroller’s office has the responsibility to oversee fiscal management. The foregoing are independent entities which have the power to initiate investigations.</p> <p>The Transparency Agency, which reports to the president, plays different roles in fighting against 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 fight against corruption, and receives reports of abuse and redirects them to the proper agency for investigation, among others.</p> <p>The National Commission for Moralization is committed to adopt an annual strategy for developing transparency, efficiency and morality in public administration. As an additional effort, Regional Commissions for Moralization are responsible for implementing and coordinating in the territorial level 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. Additionally it is in charge of promoting campaigns and strategies to combat corruption in the private sector.</p>
	<b>Issues in Enforcement</b>	<ol style="list-style-type: none"> <li>1) The extent of corruption surpasses the capacity of anti-corruption agencies and resources to handle cases, creating a considerable backlog and inefficiency in investigations (both investigators and judges).</li> <li>2) A lack of funding and strong political influences at the regional level makes regional investigations more difficult.</li> <li>3) No whistleblowing protection policies and inaccessible witness protection programs.</li> <li>4) Lack of regulation regarding lobbying practices.</li> <li>5) The government and enforcement authorities are unaware of the importance of self-reporting to understand the corruption and bribery phenomena. It is important to enact and issue regulations related to self-reporting to enhance the enforcement of the regulation enacted.</li> <li>6) No user-friendly corruption databases which could aid to provide support amongst the</li> </ol>

		<p>citizenship and the government to understand and monitor this phenomenon.</p> <p>7) Lack of regulation regarding donations.</p>
	<b>Recent Movement</b>	<p>The Colombian Congress recently enacted the new Anti-Bribery Statute (Law 1474 of 2011).</p> <p>The National Commission for Moralization has yet to enact and issue policies related to the management of the risks related to corruption and bribery. It is important to make a constant review of the policies enacted.</p> <p>The administrative enforcement authorities (i.e. Superintendencies) and the high courts are currently reviewing major corruption cases which could enhance the understanding and scope of the anti-bribery regulations enacted and issued (Case-law/ Precedent Law).</p>
<b>Participation in International Anti-corruption Conventions</b>	<b>OAS Convention</b>	<p>Signed: March 29, 1996</p> <p>Ratified: Nov. 25, 1998</p>
	<b>OECD Convention</b>	<p>Signed and ratified: Nov. 20, 2012</p> <p>Entry into force: Jan. 19 2013</p>
	<b>UNCAC</b>	<p>Signed: Dec. 10, 2003</p> <p>Ratified: Oct. 27, 2006</p>
<b>Last Updated</b>		November 11, 2014

<b>Region</b>		South America
<b>Country</b>		<b>Ecuador</b>
<b>2014 CPI</b>	<b>Rank</b>	110/175
	<b>Score</b>	33
<b>The Law on Bribery</b>	<b>Bribery of Domestic Officials</b>	<p>Under Ecuador’s new <i>Código Orgánico Integral Penal</i> (2014), known as the “COIP,” both the giving and receiving of bribes to/by domestic officials are 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 in order 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>.)</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 also is crime for such individuals to obtain on behalf of themselves, or third parties, unjustified earnings. 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>.)</p> <p><u>Corporate liability</u>: The general managers or legal representatives of a company may be prosecuted if the company is engaged in the bribery of officials.</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 civil servant to obtain a favorable result on behalf of themselves or third parties. (Article 285 <i>Trafico de Influencias</i>; and Article 286 <i>Oferta de realizar trafico de influencias</i>.)</p>
	<b>Bribery of Foreign Officials</b>	Ecuador does not have laws that prohibit the bribery of foreign public officials.
	<b>Commercial Bribery</b>	Ecuador does not have laws that prohibit commercial bribery.
<b>Definitions</b>	<b>Government Employee</b>	Public servants include anyone who is employed by any entity at any level of the government (national, local, etc.) and performs a public function, including individuals who work in any agency of the government, such as law enforcement and military personnel. (Organic Law on Public Servants art. 4.) Public servants also include employees of state-owned or state-controlled companies. (Organic Law on Public Companies art. 18.)
	<b>Gratification (Gifts/ Entertainments/ etc)</b>	Gifts and hospitality do not constitute bribery under the COIP unless there is a corrupt purpose attached to the gift (an intention to pay the bribe for an exchange of favors). However, the receipt of any gift or hospitality of any value by a public servant may constitute a disciplinary violation. In such case, only the public official who receives the gift, and not the giver, may be punished. (Organic Law on Public Servants arts. 10, 24 and 42.)
<b>Current Status</b>	<b>Enforcement Body</b>	The Transparency and Social Control agency of the government, created under the 2008 Constitution, and the Anti-Corruption Secretariat, created under a presidential decree in December 2008, are responsible for conducting investigations of acts of corruption and anticorruption strategies. However, the prosecutorial power and discretion remain with the Office of the Prosecutor General.
	<b>Issues in Enforcement</b>	<ol style="list-style-type: none"> <li>1) The Anti-Corruption Secretariat is not insulated from political influence. The President has discretion in naming the Anti-Corruption Secretariat manager. Also, the President is the final decision-maker of anticorruption policies; the Anti-Corruption Secretariat only makes suggestions.</li> <li>2) Despite announcements and acts by the government to fight corruption, corruption is</li> </ol>

		still a major issue in Ecuador. 3) Lack of transparency and inefficiency of the judicial system.
	<b>Recent Movement</b>	In January 2014, Ecuador's National Assembly implemented a new <i>Código Orgánico Integral Penal</i> (COIP) which became effective in August 2014.  In May 2013, the Transparency and Social Control agency of the government issued an 83-page document titled the "National Plan of the Prevention and Fight Against Corruption." The four-year Plan aims at creating by 2017 a system of institutions and rules that promote the practice of ethics as a mechanism to end corruption both in the private and public sectors. The Plan's principal projects are the implementation of a code of ethics for public servants, promotion of an anti-money laundering culture, and surveillance of citizen activity. The Plan also proposes reforms to the "Organic Law of Transparency and Public Access to Information" (LOTAIP), the law requiring public entities to disclose their internal information to the public. Importantly, the Plan extends corruption to cover all acts of bribery, influence, fraud, use of insider information, conflict of interests, embezzlement and tax evasion.
<b>Participation in International Anti-corruption Conventions</b>	<b>OAS Convention</b>	Signed March 29, 1996 Ratified May 26, 1997
	<b>OECD Convention</b>	No
	<b>UNCAC</b>	Signed Dec. 10, 2003 Ratified Sept. 15, 2005
<b>Last Updated</b>		December 4, 2014

<b>Region</b>		South America
<b>Country</b>		<b>Venezuela</b>
<b>2014 CPI</b>	<b>Rank</b>	161/175
	<b>Score</b>	19
<b>The Law on Bribery</b>	<b>Bribery of Domestic Officials</b>	<p>The Law against Corruption of 2003 (the “Anti-Corruption Law”) is the primary source of law that criminalizes the bribery of domestic officials, and punishment applies to both the offeror and the receiver of the 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 a performance of his duties; punishable by one to four years imprisonment and a fine of up to 50% of the bribe (Anti-Corruption Law art. 61).</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 a performance, delay or omission contrary to his duties; punishable by three to seven years imprisonment and a fine of up to 50% 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. 62).</p> <p><u>Judicial bribery</u>: It is a crime when a judge receives a bribe in exchange for a favorable decision; punishable by five to ten years imprisonment if the court decision results in a prison sentence of over six months (Anti-Corruption Law art. 61).</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 six months to two years imprisonment (Anti-Corruption Law art. 63).</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 action of organized crime, even when the activity is committed by only one individual on behalf of the corporation.</p>
	<b>Bribery of Foreign Officials</b>	Venezuela does not have laws that specifically prohibit the bribery of foreign officials. However, as a signatory to the UNCAC and the OAS Convention, Venezuela will assist foreign anti-corruption authorities in investigating foreign bribery cases.
	<b>Commercial Bribery</b>	Commercial bribery is prohibited and a breach could be deemed an administrative violation, and the violator may be fined (Law for the Protection and Promotion of Free Competition art. 17). The fine for such conduct could be up to 10% of the value of the transaction in question, an amount that may be increased to 20% of the value of the transaction.
	<b>Private Commercial Bribery</b>	Venezuela criminalizes bribery between private parties (Law on Fair Prices).
<b>Definitions</b>	<b>Government Employee</b>	<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"> <li>- any body vested with public functions;</li> <li>- any organ or body with the authority to exercise a public power;</li> <li>- any organ or body that is established by the Republic, states, territories or federal dependencies or metropolitan district and municipalities;</li> <li>- any organ or body where at least 50% of the share capital is owned by the government or state entities;</li> <li>- all public universities; and</li> <li>- the Central Bank of Venezuela.</li> </ul>

	<p><b>Gratification (Gifts/ Entertainments/ etc)</b></p>	<p>There are no specific rules under the laws of Venezuela with respect to gratification. The Anti-Corruption Laws use the term “undue donation,” but in general, only monetary bribes or benefits constitute corruption. However, the general bribery provisions contained in Articles 71 and 72 of the Anti-Corruption Law may be broad enough to cover government officials and public servants. There are no provisions in relation to the private sector.</p> <p>A contravention of the above provisions is punishable by two to four years imprisonment.</p> <p>However, because of the ambiguity of the language, a judge may decide whether he will consider a gift as an undue donation. The receipt of a gift, regardless of whether it is criminalized, is a violation of the code of ethics for a public official, and disciplinary penalties may lead to termination.</p>
<p style="writing-mode: vertical-rl; transform: rotate(180deg);"><b>Current Status</b></p>	<p><b>Enforcement Body</b></p>	<p>The <i>Poder Ciudadano</i> (Citizen Power, in Spanish) was created by the 1999 Constitution as an umbrella organization that coordinates anti-corruption efforts. The General Comptroller’s Office (GCO) monitors government revenues and expenses, and the General Public Prosecutor’s Office is responsible for handling criminal cases (including corruption) and has the power to designate specialized authorities to investigate. The agencies were intended to be politically independent, but are largely influenced by politics in practice. The National Financial Intelligence Unit aims to uncover and prevent money laundering, and counter terrorist financing.</p>
	<p><b>Issues in Enforcement</b></p>	<ol style="list-style-type: none"> <li>1) Enforcement bodies such as the GCO have little insulation from political influence. Investigations are often conducted pursuant to political agenda (e.g., investigation of presidential candidates to prevent their election).</li> <li>2) Lack of real commitment to fight against corruption.</li> <li>3) Mistrust of the justice system.</li> <li>4) Systematic corruption exists at all levels of society.</li> <li>5) An increasing impunity rate. GPPO published in its last report a 92% impunity rate in prosecutions.</li> <li>6) Both the GCO and the GPPO lack institutional resources and funding.</li> <li>7) The government recently initiated whistleblower policies.</li> </ol> <p>Despite a weak judiciary system, there are enforcement actions on corruption that are currently active:</p> <p>For example, on October 15, 2013, the ninth crime control court of Carabobo state, north Venezuela, on Monday remanded into custody Valencia’s Mayor Edgardo Parra Oquendo, a member of ruling United Socialist Party of Venezuela (PSUV), for alleged involvement in corruption during his tenure. The Venezuelan Attorney General’s Office charged Parra with collusive bidding, corruption, embezzlement, and criminal association. The court set the Bolivarian Intelligence Service (Sebin) Territorial Base in Valencia city, Carabobo state (north Venezuela) as the detention center. It also ordered seizure of Parra’s bank accounts and assets, including manors, apartments, boats and technology equipment.</p>
	<p><b>Recent Movement</b></p>	<p>At the end of November 2014, President Nicolas Maduro announced a reform of the Anti-Corruption Law. The reform is said to create a special police force – the National Anti-Corruption Body – to help enforce the law, and establishes consequences for international or transnational bribery.</p>
<p><b>Participation in International Anti-corruption Conventions</b></p>	<p><b>OAS Convention</b></p>	<p>Signed March 29, 1996 Ratified May 22, 1997</p>
	<p><b>OECD Convention</b></p>	<p>No</p>
	<p><b>UNCAC</b></p>	<p>Signed Dec. 10, 2003 Ratified Feb. 2, 2009</p>
<p><b>Last Updated</b></p>		<p>December 9, 2014</p>

<b>Region</b>		South Asia
<b>Country</b>		<b>India</b>
<b>2014 CPI</b>	<b>Rank</b>	85 /175
	<b>Score</b>	38
<b>The Law on Bribery</b>	<b>Bribery of Domestic Officials</b>	<p>The primary anti-corruption law in India is the Prevention of Corruption Act, 1988 (PCA) that consolidated all prior laws dealing with corruption and the Lokpal and Lokayuktas Act, 2013 (LLA) which came into force on January 16, 2014. 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 (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). However, rules to enforce the Benami Act were never framed. Consequently, to overcome the shortcomings of the Benami Act and to consolidate all prior laws relating to benami transactions, the Benami Transactions (Prohibition) Bill 2011 was introduced in the Lower House in August 2011. However, this bill lapsed and would have to be re-introduced in Parliament. 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 the year 1972.</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 in the offense of receiving a bribe (as described in (i) through (v) below), regardless of whether such act is committed as a consequence of the abetment, shall be punishable with imprisonment and fine (PCA §12). This rule is subject to an exception. A statement made by a person in a proceeding against a public servant for an offense under the PCA that he offered a bribe to the public servant shall not subject such person to prosecution (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 exercise of personal influence with a public servant; (iv) abetment of acts specified in (ii) or (iii) by a public servant, regardless of whether such acts are committed as a consequence of the abetment; (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 expressly contain a provision that holds corporations liable for an offense committed under the PCA. A recent Supreme Court decision, however, held that corporations can be prosecuted for criminal offenses under the PCA (C.B.I. v. M/s. Blue Sky Tie-up Limited &amp; Ors. CrI. Appeal No(s). 950 of 2004; see also Standard Chartered Bank v. Directorate of Enforcement (2005) 4 SCC 530; Iridium India Telecom Limited v. Motorola Incorporated &amp; Others (2011) 1 SCC 74).</p> <p>The Prevention of Corruption (Amendment) Bill, 2013 was introduced in the Upper House in August 2013. The bill has specific provisions related to giving a bribe to a public servant and the giving of a bribe by a commercial organization. Subject to certain exceptions, the bill proposes to levy civil and criminal penalties on persons responsible for the conduct of a commercial organization which has been found guilty of an offence relating to bribing a public servant. The bill is still pending in the Parliament.</p>
	<b>Bribery of Foreign Officials</b>	<p>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 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 accepts or solicits any undue advantage in the exercise of his official function. Further, in relation to the conduct of international business in order to obtain or retain business offers, 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 official duties shall also be punished by imprisonment and a fine. It is also a</p>

		crime to abet or attempt to commit any of the aforementioned acts under the bill. However, this bill lapsed and would have to be re-introduced in Parliament.
	<b>Commercial Bribery</b>	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.
<b>Definitions</b>	<b>Government Employee</b>	<p>“Public servant” has been widely 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 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>“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 of 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 Group ‘A’ or Group ‘B’ official of 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 or member or officer or employee in an body or board or corporation or authority or company or society or trust or autonomous body (by whatever name called) established by an act of Parliament or wholly or partly 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 (whether registered any law for the time being in force or not), by whatever name called, wholly or partly 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 (whether registered any law for the time being in force or not), in receipt of any donation from any foreign source under the Foreign Contribution (Regulation) Act, 2010 in excess of ten lakh rupees in a year or such higher amounts as the Central Government may prescribe. (LLA § 14).</p>
	<b>Gratification (Gifts/ Entertainments/ etc)</b>	<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 is permitted by the government or the organization, which he serves, to accept (PCA §7).</p> <p>“A motive or reward for doing” refers to the concept where a person who receives a gratification as a motive or reward for doing what he has not done, does not intend to do, or is not in a position to do (PCA §7).</p>
<b>Current Status</b>	<b>Enforcement Body</b>	<p>The Central Vigilance Commission supervises the Central Bureau of Investigation (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 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>
	<b>Issues in Enforcement</b>	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 three months. As of 2010, 66% of the 236 cases with the central government remained pending for over three months. However, the Supreme Court did clarify that no prior sanctions would be required for abetment of bribery offenses under the PCA.
	<b>Recent Movement</b>	In April 2011, Anna Hazare, an anti-corruption activist, began a hunger strike to urge the government to pass the Jan Lokpal Bill (often called Citizen’s Ombudsman Bill). The strike eventually turned into a fully fledged anti-corruption movement that finally led to the passing of the LLA, which came into force on January 16, 2014. The LLA widens the scope of public servants who may be prosecuted for corruption charges and includes the prime minister and every government officer and official.
<b>Participation in International Anti-corruption Conventions</b>	<b>OECD Convention</b>	No
	<b>UNCAC</b>	Signed Dec. 9, 2005 Ratified May 9, 2011
<b>Last Updated</b>		November 10, 2014

<b>Region</b>		Southeast Asia
<b>Country</b>		<b>Indonesia</b>
<b>2014 CPI</b>	<b>Rank</b>	107/175
	<b>Score</b>	34
<b>The Law on Bribery</b>	<b>Bribery of Domestic Officials</b>	<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><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"> <li>- in exchange for (or due to) the commission or the omission of an act that contradicts the civil servant’s obligations: one to five years imprisonment and/or a fine of 50,000,000 to 250,000,000 rupiahs (Law No. 31/1999 art. 5).</li> <li>- in relation to the power or authority of the position (without requesting an exchange in performance): up to three years imprisonment and/or a maximum fine of 150,000,000 rupiahs (Law No. 20/2001 art. 13).</li> </ul> <p><u>Receiving a bribe</u>: Criminal charges may be imposed on a civil servant or state operator (or judge) who receives presents or promises knowing/suspecting that they were given:</p> <ul style="list-style-type: none"> <li>- due to his position and authority: one to five years imprisonment and/or a fine of 50,000,000 to 250,000,000 rupiahs (Law No. 31/1999 art. 11).</li> <li>- to influence his behavior in committing or omitting (or ruling in court) an act that contradicts his obligations; life imprisonment or four to twenty years imprisonment and a fine of 200,000,000 to 1,000,000,000 rupiahs (Law No. 31/1999 art. 12).</li> <li>- Causing loss to the state: criminal charges can be imposed on anyone who may cause loss to the state finance or economy by:</li> <li>- illegally committing an act to enrich himself/another; life imprisonment or four to twenty years imprisonment and a fine of 200,000,000 to 1,000,000,000 rupiahs (Law No. 20/2001 art. 2).</li> <li>- abusing his authority with an intention to earn profits; life imprisonment or one to twenty years imprisonment or a fine of 50,000,000 to 1,000,000,000 rupiahs (Law No. 20/2001 art. 3).</li> </ul> <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).</p> <p>*For corrupt acts involving amounts of less than 5,000,000 rupiahs, the maximum term of imprisonment is three years and the maximum fine is 50,000,000 rupiahs (Law No. 20/2001).</p>
	<b>Bribery of Foreign Officials</b>	<p>Law No. 7/2006 prohibits the bribery of foreign public officials by ratifying the UNCAC. However, there is no actual legislation that implements this prohibition, and thus, 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, but it is uncertain if the final version will contain such provisions, and if the bill will be passed.</p>
	<b>Commercial Bribery</b>	<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) a corporation that receives assistance from state finance or regional finance; and (2) other corporations that use capital or facilities provided by the state or the public.</p>
<b>Definitions</b>	<b>Government Employee</b>	<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) from other</p>

		<p>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>
	<b>Gratification (Gifts/ Entertainments/ etc)</b>	<p>The Anti-Corruption Laws do not discuss travel, entertainment, etc., but these may all fall under the category of “gratification,” and may be considered a bribe if they were 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 under, the public prosecutor has the burden).</p> <p>A receipt of gratification is not a bribe if the receiver reports it to the Corruption Eradication Commission (KPK); the KPK will determine if the gratification can be kept (Law No. 20/2001, art. 12 B).</p>
<b>Current Status</b>	<b>Enforcement Body</b>	<p>The Corruption Eradication Commission (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 rupiahs, involve law enforcement officials, and attract 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>
	<b>Issues in Enforcement</b>	<ol style="list-style-type: none"> <li>1) 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, however protection for whistleblowers is still an issue.</li> <li>2) The KPK is only authorized to investigate and prosecute crimes that meet certain threshold requirements.</li> <li>3) The KPK has very limited resources.</li> </ol>
	<b>Recent Movement</b>	<p>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 is using the proceeds arising from a corrupt act.</p>
<b>Participation in International Anti-corruption Conventions</b>	<b>OECD Convention</b>	No
	<b>UNCAC</b>	<p>Signed Dec. 18, 2003</p> <p>Ratified Sept. 19, 2006</p>
<b>Last Updated</b>		November 20, 2014

<b>Region</b>		Southeast Asia
<b>Country</b>		<b>Malaysia</b>
<b>2014 CPI</b>	<b>Rank</b>	50/175
	<b>Score</b>	52
<b>The Law on Bribery</b>	<b>Bribery of Domestic Officials</b>	<p>The primary body of law on anti-corruption is the Malaysian Anti-Corruption Commission Act 2009 (MACC Act) which came into effect on 1 January 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 granting of any contract for the benefit of any person or to show any favor or disfavor in his 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 such as the Penal Code, 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.</p>
	<b>Bribery of Foreign Officials</b>	<p><u>Offering a bribe</u>: It is a crime for a person to give, offer or promise gratification by himself or through an intermediary as an inducement or reward to a foreign public official to have the official use his 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 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 in exchange for any of the aforementioned activities (MACC Act sec. 22).</p> <p>Citation of conventional practice is not recognized as a defense.</p> <p>Both the offeror and the recipient of the bribe may be subject to up to 20 years imprisonment and a fine which is the higher of five times the value of the gratification or 10,000 ringgit, whichever higher (MACC Act sec.24).</p>
	<b>Commercial Bribery</b>	The MACC Act prohibits both public and commercial bribery (MACC Act sec. 16).
<b>Definitions</b>	<b>Government Employee</b>	<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>

	<b>Gratification (Gifts/ Entertainments/ etc)</b>	<p>The definition of “gratification” is expansive, covering pecuniary advantages as well as services and favors.</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 details limited circumstances in which gifts may be allowed and the applicable approval procedures that must be followed.</p>
<b>Current Status</b>	<b>Enforcement Body</b>	<p>The Malaysian Anti-Corruption Commission (MACC) is authorized to investigate bribery offences under both the MACC Act and the PC. Other institutions relevant to the fight against corruption include the Attorney General’s Chambers (“AGC”), the Royal Malaysia Police (“RMP”), the Royal Customs and Excise Department, the Financial Intelligence Unit of the Central Bank of Malaysia (“FIU”), the Ministry of Foreign Affairs, the Public Service Department (“PSD”), and the Judiciary.</p> <p>With the consent of the Attorney General who acts as the Public Prosecutor, the MACC may prosecute bribery offences.</p>
	<b>Issues in Enforcement</b>	<ol style="list-style-type: none"> <li>1) The Whistleblower Protection Act was enacted in 2010 but remains ineffective because of a general lack of political commitment to enforcement. There has not been a significant improvement in transparency since its enactment.</li> <li>2) The ongoing battle for power between the two major political coalitions in Malaysia diverts attention from enforcement of anti-corruption law.</li> <li>3) The MACC is subject to close control by the ruling coalition, and its enforcement efforts have appeared selective.</li> <li>4) The Government has been criticized of not removing its policy of affirmative action for small government contracts during the review of public procurement.</li> </ol>
	<b>Recent Movement</b>	<ol style="list-style-type: none"> <li>1) The MACC has announced plans to collaborate with the Association of Certified Fraud Examiners (“ACFE”) by joining the Law Enforcement and Government Partnership (“LEGP”).</li> <li>2) MACC has also announced its intentions to certify above 400 investigation officers with the Certified Fraud Examiners credential.</li> <li>3) The MACC has recently urged police to revisit its own suggestion to set up the Independent Police Integrity Commission (“IPIC”) furthered with a Disciplinary Division.</li> <li>4) The Global Competitiveness Report 2014-2015 stated that “Malaysia ranks a satisfactory 26th in the ethics and corruption component of the ethics and corruption index, but room for improvement remains.”</li> </ol>
<b>Participation in International Anti-corruption Conventions</b>	<b>OECD Convention</b>	No (observer status)
	<b>UNCAC</b>	<p>Signed Dec. 9, 2003</p> <p>Ratified Sept. 24, 2008</p>
<b>Last Updated</b>		November 10, 2014

<b>Region</b>		Southeast Asia
<b>Country</b>		<b>Myanmar</b>
<b>2014 CPI</b>	<b>Rank</b>	156/175
	<b>Score</b>	21
<b>The Law on Bribery</b>	<b>Bribery of Domestic Officials</b>	<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>Corruption, as defined, means a person in authority who gives or accepts or obtains or attempts to accept to propose or commitment or discuss by other means to direct or indirectly, from any person for himself or for any other person or any organization, any gratification whatever as a motive or reward for doing or avoiding to do any official act or to render legal entitle or to prohibit the legal entitle, in the exercise of his official functions (Anti-Corruption Law sec. 3(a)).</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 or for any other person, any gratification (other than legal remuneration) for the official's performance or omission to perform his duty, regardless whether the act or omission is carried out; punishable by up to three years imprisonment, a fine, or both (Penal Code sec. 161). Under the Anti-Corruption Law, a Political Post Holder found guilty of corruption may be imprisoned up to 15 years and/or fined; a Person in Authority found guilty of corruption may be imprisoned 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 duty, or to render or attempt to render any service or disservice to any public official; punishable by up to three years imprisonment, a fine, or both (Penal Code sec. 162).</p> <ul style="list-style-type: none"> <li>- "Person" in this section includes any company or association, or body of persons, whether incorporated or not (Penal Code sec. 11).</li> <li>- 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 duty, by the exercise of personal influence on any public official; punishable with up to one year imprisonment, a fine, or both (Penal Code sec. 163).</li> <li>- It is a crime for a public servant to abet the abovementioned crimes; punishable with up to three years imprisonment, a fine, or both (Penal Code sec. 164).</li> </ul> <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 of facilitation, the definition provided may be construed to include such activities under the broad definition of bribery. Under the Anti-Corruption Law, any Political Post Holder found guilty of corruption face up to 15 years imprisonment (Anti-Corruption Law sec. 55).</p> <p><u>Presumption of corruption:</u> It is a crime for a public servant to demand, accept or agree to accept, for himself or any other person, any valuable object without consideration, or for consideration he knows to be inadequate, from any person he 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 with up to two years imprisonment, a fine, or both (Penal Code sec. 165).</p> <p>Under the Anti-Corruption Law, the burden of proof rests on the person being investigated; the person must prove how he has obtained money or property which is the subject of investigation (sec. 64).</p>

	<p><b>Bribery of Foreign Officials</b></p>	<p>Myanmar law includes the definition of foreign public servants.</p>
	<p><b>Commercial Bribery</b></p>	<p>Myanmar does not currently criminalize bribery in the private sector.</p>
<p style="writing-mode: vertical-rl; transform: rotate(180deg);"><b>Definitions</b></p>	<p><b>Government Employee</b></p>	<p>The Anti-Corruption law distinguishes between a political post holder, a high ranking officer and an authorized person.</p> <p>A Political Post Holder means a person who has been announced time to time by notification by the commission, with the approval of Pyidaungsu Hluttaw. (Anti-Corruption Law sec. 3(g)).</p> <p>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)).</p> <p>A Person in Authority means one who has the authority by means of his 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)).</p> <p>Public Official means any permanent or temporary employee working in any position of legislature, administration and judiciary, working in a public department, organization or specified as a public service man under any existing law, whether or not he or she is appointed or selected, whether or not receives salary and allowance. (Anti-Corruption Law sec. 3(e)).</p> <p>Public Servant is defined in the Penal Code (sec. 21) and means any of the following:</p> <ul style="list-style-type: none"> <li>- A covenanted servant of the government;</li> <li>- A commissioned officer in the army, navy or air forces of the state;</li> <li>- A judge;</li> <li>- An officer of a court of justice;</li> <li>- A juryman, assessor or member of a village committee assisting a court or public servant;</li> <li>- 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;</li> <li>- A person who holds any office empowering him to place or keep any person in confinement;</li> <li>- An officer of government whose duty is to prevent offenses, give information of offenses, bring offenders to justice or protect public health, safety or convenience;</li> <li>- An officer in the service of the government or receiving remuneration from the government for the performance of any public duty;</li> <li>- A member of the government;</li> <li>- 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</li> <li>- A person who holds any office empowering him to prepare, publish, maintain or revise an electoral roll or to conduct an election or part of an election.</li> </ul> <p>“Government” means person(s) authorized to administer the executive government in any part of Myanmar (Penal Code sec. 17).</p>
	<p><b>Gratification (Gifts/ Entertainments/ etc)</b></p>	<p>“Gratification” is defined broadly and not limited to pecuniary gratification or gratification estimable in monetary terms (Penal Code sec. 161). Gratification is also defined in the Anti-Corruption Law to extend beyond pecuniary or monetary means. Under the law,</p>

		<p>gratification means “receiving consideration or without providing appropriate consideration with the intent to corrupt, in the form of giving 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 is permitted by the government to accept (Penal Code sec. 161).</p>
<b>Current Status</b>	<b>Enforcement Body</b>	<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 offences 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>
	<b>Issues in Enforcement</b>	<p>Current laws seem to have differing liabilities, and translations of new laws are not always accurate. The newly established Anti-Corruption Law has yet to have any regulations or notifications passed for further enforcement.</p>
	<b>Recent Movement</b>	<p>The Anti-Corruption law was enacted on August 7, 2013 and came into effect on September 17. The Anti-Corruption Commission was composed of 15 members and formed by the President on February 25, 2014. On November 15, 2013, Myanmar signed a Memorandum of Understanding to enter 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 South East Asia.</p>
<b>Participation in International Anti-corruption Conventions</b>	<b>OECD Convention</b>	No
	<b>UNCAC</b>	Signed December 2, 2005; Ratified December 20, 2012
<b>Last Updated</b>		November 28, 2014

<b>Region</b>		Southeast Asia
<b>Country</b>		<b>Philippines</b>
<b>2014 CPI</b>	<b>Rank</b>	85/175
	<b>Score</b>	38
<b>The Law on Bribery</b>	<b>Bribery of Domestic Officials</b>	<p>In the Philippines, one primary source of anti-corruption provisions relating to the bribery of domestic officials is the Revised Penal Code (“RPC”), which defines and provides penalties for bribery and corruption of public officials, and which extends to both public officials and private individuals.</p> <p>Another major source of anti-corruption law is the Anti-Graft and Corrupt Practices Act, Republic Act No. 3019 (“RA 3019”), which sets forth a list of specific corrupt practices that also extend to private individuals. Prohibited acts under RA 3019 include: influence peddling, benefitting in connection with a government contract, benefitting 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"> <li>- Anti-Plunder Act (“RA 7080”), which defines the crime of “plunder” and sets forth penalties for those public officials who accumulate ill-gotten gains in an aggregate amount of 50 million Philippine pesos;</li> <li>- Code of Conduct and Ethical Standards for Public Officials and Employees (“RA 6713”), which sets forth a code of conduct for public officials that includes a prohibition on soliciting or accepting gifts, gratuities, loans, favors or entertainment in the course of or in connection with their duties;</li> <li>- Act Declaring Forfeiture of Ill-Gotten Wealth of Public Officers and Employees (“RA 1379”), which states that if property is obtained during a public official’s incumbency and is manifestly disproportionate to the official’s salary, other lawful income and lawfully acquired property, then there is a <i>prima facie</i> presumption that such property has been unlawfully acquired.</li> <li>- Act of Punishing Receiving and Giving of Gifts of Public Officers and Employees, (“Presidential Decree No. 46”), which prohibits public officials from receiving gifts and private individuals from offering gifts and hosting parties or entertainment to honor a public official.</li> <li>- Anti-Red Tape Act of 2007 (“RA 9485”), which seeks to improve efficiency in the delivery of government service 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 speedy completion of transactions for pecuniary gain or any other advantage or consideration</li> <li>- Anti-Money Laundering Act of 2001 (“RA 9160, as amended”), which imposes criminal penalties on persons, including government officers, involved in money-laundering activities proscribed as “unlawful activities” under the Act, which involve commission of acts of money-laundering in relation to the other anti-corruption laws.</li> </ul> <p><u>Corporate liability:</u> Only natural persons may be prosecuted for criminal violations and be 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>
	<b>Bribery of Foreign Officials</b>	<p>The Philippines does not currently have any domestic laws that prohibit the bribery of foreign officials.</p> <p>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,” which is defined as a natural person who is or has been entrusted with prominent public positions in the Philippines or in a foreign State, including heads of state or government, senior politicians, senior national or local</p>

		<p>government, judicial or military officials, senior executives of government or state owned or controlled corporations and important political party officials. In cases of higher risk business relationships with such persons including foreign politically exposed persons, a covered institution shall apply the enhanced due diligence measures set out in the IRR.</p>
	<p><b>Commercial Bribery</b></p>	<p>The Philippines does not currently have any domestic laws that prohibit private commercial bribery.</p>
<p style="writing-mode: vertical-rl; transform: rotate(180deg);"><b>Definitions</b></p>	<p><b>Government Employee</b></p>	<p>The definitions of “public official” vary 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 they receive compensation, regardless of the 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 United Nations Convention Against Corruption (“UNCAC”).</p>
	<p><b>Gratification (Gifts/ Entertainments/ etc)</b></p>	<p>“Gratification” is expansively defined in the relevant anti-corruption laws and includes entertainment, loans, favors and services.</p> <p>The only exception is contained in Section 14 of RA 3019, which expressly states that unsolicited gifts of nominal or insignificant value which are given as an ordinary token of gratitude or friendship in accordance with local custom or usage are exempt from the Act.</p> <p>In <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 twelve 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>
<p style="writing-mode: vertical-rl; transform: rotate(180deg);"><b>Current Status</b></p>	<p><b>Enforcement Body</b></p>	<p>The authorities in charge of anti-corruption efforts are:</p> <ul style="list-style-type: none"> <li>- the Office of the Ombudsman and Office of the Special Prosecutor, which investigate and prosecute cases of corruption;</li> <li>- the Sandiganbayan, a specialized court that handles anti-graft cases, or the Regional Trial Court, depending on the level of the public official involved;</li> <li>- 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; and</li> <li>- 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.</li> <li>- the Civil Service Commission, an independent constitutional body as the central personnel agency of the Government, is tasked to promote integrity, efficiency and accountability in the government service. It has jurisdiction over administrative cases, including administrative charges for graft and corruption, brought before it on appeal.</li> <li>- 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.</li> <li>- the Anti-Money Laundering Council, which is empowered to institute civil forfeiture</li> </ul>

		<p>proceedings, cause filing of complaints for the prosecution of money laundering offenses, initiate investigations of money laundering activities, and freeze any monetary instrument or property alleged to be proceeds of any unlawful activity.</p>
	<p><b>Issues in Enforcement</b></p>	<p>Clogged investigation and court dockets; delay in recovery of ill-gotten wealth; delay in passage of important legislation (such as the Freedom of Information bill, which is awaiting approval by Congress and would give the public broader access to government-held information); a relatively low conviction rate of public officials being prosecuted for graft and corruption-related crimes; 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; and the use of the graft and corruption charges as political tools.</p>
	<p><b>Recent Movement</b></p>	<p>Following the election of President Aquino in 2010, President Aquino’s administration has embarked on an aggressive anti-corruption campaign, which has resulted in the prosecution of a number of high profile politicians.</p> <p>In December 2011, former President Gloria Arroyo and other former public officials were charged by the Office of the Ombudsman with violating RA3019 and RA 6713. The charges pertained to a deal between the Philippine Government’s National Broadband Network and a Chinese telecommunication company, Zhing Xing Telecommunications Equipment. The cases are still ongoing and since then additional corruption-related charges have been filed against the accused individuals.</p> <p>In December 2011, the House of Representatives approved a complaint to impeach the incumbent Chief Justice of the Supreme Court, Renato Corona. Among the grounds for impeachment were accusations of graft and corruption, including allegations of favoritism toward former President Arroyo. In May 2012, the Senate voted to convict Renato Corona on one of the charges brought against him in the impeachment action.</p> <p>In July 2012, the Ombudsman filed plunder charges against former President Arroyo and other officials based upon the alleged misuse of 366 million pesos (at the time, approximately US\$8.8 million) in Philippine Charity Sweepstakes Office funds. The case is being tried by the First Division of the Sandiganbayan.</p> <p>In August 2013, thousands protested in Manila to express outrage over the alleged misuse by members of Congress of discretionary funds from the Priority Development Assistance Fund (the “PDAF”), which was supposed to be earmarked for development projects. Shortly thereafter, in September 2013, corruption charges were filed against three prominent senators, two former lawmakers and a businesswoman for allegedly misusing more than US\$200 million in funds from the PDAF.</p> <p>In November 2013, the Supreme Court ruled that the PDAF, widely known as the “pork barrel,” was unconstitutional, and began oral arguments over the constitutionality of the Disbursement Acceleration Program (the “DAP”), President Aquino’s own source of discretionary funds, payments from which were allegedly used to influence senators, including the impeachment of the former Chief Justice of the Supreme Court, Renato Corona. The Supreme Court’s ruling on the PDAF is particularly remarkable because the ruling reversed three separate Supreme Court decisions that were issued in 1994, 2001 and 2012.</p> <p>In light of the developments surrounding the PDAF, questions were thereafter raised concerning the constitutionality and validity of the DAP which is a program allowing the transfer of savings and unused funds from slow-disbursing programs of one department to fast-moving projects of another. On July 1, 2014, the Supreme Court declared three specific acts under the DAP unconstitutional.</p> <p>On April 1, 2014, the Ombudsman announced its decision to prosecute Senators Juan Ponce Enrile, Ramon “Bong” Revilla, Jr., and Jinggoy Ejercito Estrada along with Janet Lim Napoles, the businesswoman and alleged mastermind behind the “pork barrel” scam, for violation of the Anti-Plunder Act. All four accused have been arrested for the non-bailable charge.</p> <p>On July 8, 2014, a complaint for plunder was filed against Department of Budget Secretary Florencio “Butch” Abad. The complaint alleges that Abad systematically misappropriated, converted, misused and malversed public funds through the DAP.</p> <p>On September 22, 2014, a complaint for graft, plunder and indirect bribery against Philippine National Police (“PNP”) Chief Director General Alan Purisima over an</p>

		<p>undervalued property and the renovation of a multi-million residence at the general police headquarters in Camp Crame. On September 29, 2014, a second complaint for plunder, graft, indirect bribery and violation of RA 6713 was filed against PNP Chief Purisima based on his alleged unexplained wealth and the renovation of the residence in Camp Crame.</p> <p>On December 4, 2014, the Office of the Ombudsman issued an order of preventive suspension for a period of six (6) months against Philippine National Police (“PNP”) Chief Director General Alan Purisima and seventeen (17) other PNP officials. The preventive suspension was issued in connection with a complaint filed for the alleged anomalous contract the PNP entered into with the courier service company Werfast Documentary in 2011 for the delivery of firearm license cards without proper accreditation, and their alleged involvement in the missing 1,004 high-powered AK-47 rifles that were supposedly sold to the New People’s Army.</p>
<p><b>Participation in International Anti-corruption Conventions</b></p>	<p><b>OECD Convention</b></p>	<p>OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters Signed: Sept. 26, 2014 Ratified: No</p>
	<p><b>UNCAC</b></p>	<p>Signed Dec. 9, 2003 Ratified Nov. 8, 2006</p>
<p><b>Last Updated</b></p>		<p>December 13, 2014</p>

<b>Region</b>		Southeast Asia
<b>Country</b>		<b>Singapore</b>
<b>2014 CPI</b>	<b>Rank</b>	7/175
	<b>Score</b>	84
<b>The Law on Bribery</b>	<b>Bribery of Domestic Officials</b>	<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 or in conjunction with another person:</p> <ol style="list-style-type: none"> <li>a) corruptly solicits or receives, or agrees to receive for himself, or any other person; or</li> <li>b) corruptly gives, promises or offers to any person whether for the benefit of that person or another person,</li> <li>c) any gratification as an inducement to or reward for, or otherwise on account of <ul style="list-style-type: none"> <li>• any person doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed; or</li> <li>• 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.</li> </ul> </li> </ol> <p>Under Section 6 of the PCA, it is an offense for:</p> <ol style="list-style-type: none"> <li>a) 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 principal’s affairs;</li> <li>b) 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 principal’s affairs; or</li> <li>c) 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 principal.</li> </ol> <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>The Penal Code contains provisions that deal with corruption of public officials.</p> <p>The Penal Code prohibits:</p> <ol style="list-style-type: none"> <li>a) a public servant taking a gratification, other than legal remuneration, in respect of an official act;</li> <li>b) a person taking a gratification in order to influence a public servant by corrupt or illegal means;</li> <li>c) a person taking a gratification for exercising personal influence over a public servant;</li> <li>d) abetment by a public servant of the above offenses; and</li> <li>e) 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.</li> </ol> <p><u>Other Prohibitions:</u> The Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (the “CDSA”) may also apply to a person who knows or has</p>

		<p>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 offences under the Anti-Corruption Laws. Additionally, in some circumstances companies can be held liable for the acts committed by employees or agent; 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 up to five years. The PCA imposes harsher penalties where offenses involve a government contract or a member of parliament or a public body, imposing fines up to S\$100,000 and/or imprisonment of up to seven years.</p> <p>The PCA also provides for civil remedies and penalties for the restitution of property. A victim of corruption can bring a private action to recover property of which it was deprived.</p> <p>The Penal Code’s anti-corruption provisions impose fines and custodial sentences of up to three years. Moreover, under the CDSA, the court has the power to confiscate the ill-gotten gains of certain convicted defendants.</p> <p><u>Mitigation:</u> While there is no formal mechanism in place for mitigation, those prosecuted under Anti-Corruption Laws may negotiate plea bargains. Other mitigating factors include whether the accused is (and his motivations for becoming) a whistleblower and cooperates with the enforcement bodies and prosecution.</p>
	<b>Bribery of Foreign Officials</b>	<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>
	<b>Commercial Bribery</b>	<p>The PCA’s general prohibitions against bribery extend to private commercial bribery.</p>
<b>Definitions</b>	<b>Government Employee</b>	<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, commissioners 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 taxes or charges pursuant of any written law. This definition thus includes departments of the Singapore government and even, as held in 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 office to keep any person in confinement, officers 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>
	<b>Gratification (Gifts/ Entertainments/ etc)</b>	<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 proved that Singapore public officials have paid or received gratification.</p> <p>Singapore courts have held that it is not a defense that a gratitude was provided according to</p>

		industry customs.
<b>Current Status</b>	<b>Enforcement Body</b>	<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"> <li>• investigate the suspect, its family, agents and financial and other records;</li> <li>• require witnesses to interview; and</li> <li>• investigate non-corruption related seizable offences disclosed during the corruption investigation.</li> </ul> <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>The Economic Crimes and Governance Division of the Attorney General Chambers (the “EGD”) is responsible for prosecutions and all related appeals of white-collar and other general commercial crimes, including corruption cases. The EGD also handles regulatory enforcement for the financial services sector, judicial review relating to criminal law proceedings and contempt of court cases. The EGD evaluates evidence gathered by, and renders advice to, the enforcement agencies (the CPIB and the CAD), and, where necessary, directs further investigations or prosecution.</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>
	<b>Issues in Enforcement</b>	<p>While the PCA and the Penal Code are broad enough to cover individuals and corporations, enforcement action in Singapore has, to date, focused on the prosecution of individuals – this is likely to be as a result of the evidentiary challenges in proving the directing mind and will of a corporation. This is in contrast to trends in other jurisdictions such as the United States and the United Kingdom where corporations are facing increased scrutiny.</p>
	<b>Recent Movement</b>	<p>Singapore’s strong commitment to fighting corruption has been evidenced by recent convictions in high profile anti-corruption cases, including a National University of Singapore law professor in the “sex-for-grades” case (<i>PP v. Tey Tsun Hang</i>) and former Singapore Civil Defense Force chief (<i>PP v. Peter Benedict Lim Sin Pang</i>). In July 2013, an Assistant Director in the CPIB was also charged under the Anti-Corruption Laws.</p> <p>The Attorney-General Chambers is reportedly studying the merits of introducing Deferred Prosecution Agreements (“DPAs”) in Singapore. By their very nature DPAs are designed to assist in the enforcement of anti-bribery and corruption laws against corporations and if introduced DPAs are likely to have significant implications for the imposing of corporate criminal liability in Singapore.</p> <p>In a recent case (<i>PP v Lengkah Poh [2014] SCGA 51</i>) Singapore’s highest court, the Court of Appeal, clarified anti-corruption laws making it clear that inducement by a third party is not always necessary for a corruption charge to be established. The Court of Appeal said that if inducement by a third party were always necessary it would lead to absurd outcomes where the more outrageously someone behaves in soliciting a gift, the less likely he would be guilty of corruption. This would “undermine the entire object of the Prevention of Corruption Act.”</p> <p>In another 2014 case the Court of Appeal clarified the interpretation of the Prevention of Corruption Act when stating that the law should cover more sophisticated, less traditional forms of corruption. In this case, although the accused had paid for shares, this did not mean that they were not gratification. Indeed, the accused payment was a “legal red herring” designed to sanitise subsequent kickbacks disguised as dividends. Prosecutors did not need to prove that the share transaction was a sham but merely had to look to the broader spirit and policy behind the Prevention of Corruption Act.</p>
<b>Participation in</b>	<b>OECD Convention</b>	Yes

<b>International Anti-corruption Conventions</b>	<b>UNCAC</b>	Signed Nov. 11, 2005 Ratified Nov. 6, 2009
<b>Last Updated</b>		December 2, 2014

<b>Region</b>		Southeast Asia
<b>Country</b>		<b>Thailand</b>
<b>2014 CPI</b>	<b>Rank</b>	85/175
	<b>Score</b>	38
<b>The Law on Bribery</b>	<b>Bribery of Domestic Officials</b>	<p>Anti-corruption offenses are covered in a number of laws in Thailand, including the Thai Penal Code - BE 2499, the Offense of State Organization Staff Act - BE 2502 (State Staff Act), and the Organic Act on Counter Corruption - BE 2542 (Anti-Corruption Act), the Rules of the Office of the Civil Service Commission on the Code of Ethics for Civil Servants B.E. 2537, Code of Moral and Ethics of Policies B.E. 2553 and 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 B.E. 2543. In general, the offeror of the bribe, the facilitator and the receiver may all 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 a discharge of his duties (Penal Code sec. 144).</p> <ul style="list-style-type: none"> <li>- punishable with up to five years imprisonment and/or a fine of up to 10,000 Baht.</li> <li>- bribing a judge, public prosecutor or other officials tied to a case may result in up to seven years imprisonment or a fine of up to 14,000 Baht (Penal Code sec. 167).</li> </ul> <p><u>Receiving a bribe:</u> It is a crime for a public official to demand, accept or agree to accept a property or benefit that was given or promised in exchange for the official’s performance or omission to perform his duty; punishable with five to twenty years imprisonment and a fine of 20,000 to 40,000 Baht or the death penalty (Penal Code sec. 149).</p> <p>*Giving bribes 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 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 codefendant and sentenced to prison) (Thai Supreme Court Decision No. 787-788/2506).</p>
	<b>Bribery of Foreign Officials</b>	Thailand does not currently criminalize the payment of bribes to officials of foreign governments or international organizations. Thailand’s Council of State has proposed amendments to the Penal Code to include bribery of foreign public officials, and the Thai Ministry of Justice has also suggested enacting new laws to address foreign corruption specifically. The current cabinet (formed in mid 2011) has yet to consider these proposals.
	<b>Commercial Bribery</b>	Thailand does not currently criminalize bribery in the private sector. However, when such bribery is related to bid-rigging or other unfair trade practices, it may be prosecuted under other laws (e.g., the Act on Offences relating to Quotation Made to State Agency- BE 2542 and the Trade Competition Act - BE 2542).
<b>Definitions</b>	<b>Government Employee</b>	<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 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% 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>

	<b>Gratification (Gifts/ Entertainments/ etc)</b>	Under the “3,000 Thai Baht Rule” issued by the National Anti-Corruption Committee (NACC) in 2000, state officials are prohibited from receiving any gift in any form (including travel, entertainment, etc.) that exceeds 3,000 Baht in monetary value, from non-relatives. If the official feels compelled to receive a gift over 3,000 Baht in order to maintain friendship and goodwill, he must report the gift to his superior, who would then decide whether the gift is acceptable or whether it must be surrendered.
<b>Current Status</b>	<b>Enforcement Body</b>	The NACC was established under the 1997 Constitution and the Anti-Corruption Act to prevent and investigate corruption crimes. The NACC has broad powers of investigation but lacks actual authority to prosecute a crime, and must refer the case to the public prosecutor for prosecution (although the 2011 amendment seems to have provided for the eventual establishment of a prosecuting division within the NACC). At the same time, the NACC could send a report to the Senate to determine whether to impeach the offending official.
	<b>Issues in Enforcement</b>	<ol style="list-style-type: none"> <li>1) Inadequate manpower in the NACC - the original Anti-Corruption Act requires that each investigation subpanel be chaired by an NACC commissioner, but there are only nine NACC commissioners.</li> <li>2) Weak whistleblower protection, despite the existence of relevant law (Witness Protection in Criminal Case Act of 2003).</li> </ol>
	<b>Recent Movement</b>	<p>There were discussions on amending the Anti-Corruption Act or enacting a new law to cover the bribery of foreign officials, but there are no recent updates.</p> <p>The 2011 amendments to the Anti-Corruption Act (passed in April 2011) included the establishment of Provincial Anti-Corruption Commissions (PACCs), which essentially function as the NACC except at the provincial level. In 2012, there was a training course provided to around 200 provincial officials to be a network of provincial anti-corruption commissions. In 2013, the same training course was provided to the state officials. The goal of the training course is to promote the networking and reporting to PACCs if there is a corruption in their provincial office. In 2014, some provinces promoted a watchdog program to recruit local people to report instances of corruption carried out by local officials. The program will educate and train local people to be aware of corruption.</p> <p>The 2011 amendments to the Anti-Corruption Act also indicated that any person including juristic person having a contract with the state agency under any government project is required to submit the statement of income and expense regarding such project to the Revenue Department apart from the balance sheet account which is required to submit annually.</p>
<b>Participation in International Anti-corruption Conventions</b>	<b>OECD Convention</b>	No
	<b>UNCAC</b>	Signed Dec. 9, 2003 Ratified March 1, 2011
<b>Last Updated</b>		November 10, 2014

<b>Region</b>		Southeast Asia
<b>Country</b>		<b>Timor-Leste</b>
<b>2014 CPI</b>	<b>Rank</b>	133/175
	<b>Score</b>	28
<b>The Law on Bribery</b>	<b>Bribery of Domestic Officials</b>	<p>Anti-corruption provisions are included in the Criminal Code (Decree-Law No. 19/2009, of 8 April 2009, as amended by Law No. 6/2009, of 15 July 2009, Law No. 17/2011, of 28 December 2011, and Law No. 5/2013, of 11 September 2013) and the Legal Framework for Public Servants (Law No. 8/2004, of 16 June 2004, as amended and restated by Law No. 5/2009, of 15 July 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. Specifically, with respect to what constitutes passive and active corruption, the Criminal Code sets forth the following:</p> <p><u>Passive Corruption:</u></p> <p>Article 292 – Passive Corruption for an unlawful act:</p> <p>Article 292.1 sets forth that a crime of passive corruption for an unlawful act shall take place when “An official, personally or through a third party, with his/her consent or ratification, solicits or accepts for him/herself or a third party, and without being entitled to do so, any monetary or non-monetary advantage, or a promise of such advantage, in order to perform an act or omission which is contrary to the duties of the office he/she holds – even if performed prior to the solicitation or acceptance.” An official that engages in such behavior shall be subject to a prison term of between three and fifteen years.</p> <p>Article 293 – Passive Corruption for a lawful act:</p> <p>Article 293.1 sets forth that a crime of passive corruption for a lawful act shall take place when “An official, personally or through a third party, with his/her consent or ratification, solicits or accepts for him/herself or a third party, and without being entitled to do so, any monetary or non-monetary advantage, or a promise of such advantage, in order to perform an act or omission which is not contrary to the duties of the office he/she holds – even if performed prior to the solicitation or acceptance.” An official that engages in such behavior shall be subject to a prison term of up to three years or a fine.</p> <p>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> <p><u>Active Corruption:</u></p> <p>Article 294 – Active Corruption:</p> <p>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, in order to perform an act or omission which is contrary to the duties of the office held – even if performed prior to the solicitation or acceptance.” In this case, the agent of the crime shall be subject to a prison term of between three and ten years. Should such act or omission not be contrary to the duties of the office held, the agent of the crime shall be subject to a prison term of up to two years or a fine.</p> <p>The Criminal Code also determines that should the agent of any of the aforementioned crimes be someone who is entrusted with political or judicial functions, the upper limit of the prison terms is increased in one third.</p>
	<b>Bribery of Foreign Officials</b>	Pursuant to the Criminal Code, foreign officials are subject to the same rules as local officials.
	<b>Commercial Bribery</b>	Timor-Leste law does not contain any provision on trading in influence or corruption in the private sector.

<b>Definitions</b>	<b>Government Employee</b>	<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"> <li>- A public servant;</li> <li>- A public service agent;</li> <li>- Members of the armed forces and police;</li> <li>- 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;</li> <li>- A foreign public servant who is the holder of 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</li> <li>- An international public organization servant who has been authorized by said organization to act in its name.</li> </ul> <p>Pursuant to Article 302.2 of the Criminal Code, the anti-corruption provisions also apply to those who are entrusted with political, government 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>
	<b>Gratification (Gifts/ Entertainments/ etc)</b>	<p>Although no specific definition of gratification is provided for in Timor-Leste laws, nor any amounts are set forth in this respect, the law does contain a general principle according to which government officials shall only receive the compensation, per-diems, etc. set forth in 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 behavior 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 said servant’s or agent’s actions or omissions.</p>
<b>Current Status</b>	<b>Enforcement Body</b>	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 15 July 2009) before being taken to Court.
	<b>Issues in Enforcement</b>	<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>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>
	<b>Recent Movement</b>	N/A
<b>Participation in International Anti-corruption Conventions</b>	<b>OECD Convention</b>	No
	<b>UNCAC</b>	Yes (National Parliament Resolution No. 25/2008, of 10 December 2008).
<b>Last Updated</b>		December 1, 2014

<b>Region</b>		Southeast Asia
<b>Country</b>		<b>Vietnam</b>
<b>2014 CPI</b>	<b>Rank</b>	119/175
	<b>Score</b>	31
<b>The Law on Bribery</b>	<b>Bribery of Domestic Officials</b>	<p>The Penal Code governs acts of public officials, civil servants and all other individuals. The Penal Code covers “position-related crimes.” Among those crimes are <i>inter alia</i> (i) with respect to a person with position, power: “receiving a bribe” or “abuse of position, power in the performance of official duties for undue benefit”; and (ii) with respect to a bribe giver: “giving a bribe.”</p> <p>The Anti-Corruption Law of 2005 (as amended by Law on Amendment to the Anti-Corruption Laws dated 4 August 2007 and 23 November 2012) (“Anti-Corruption Law”) including a set of several laws and regulations, govern the conduct of public officials, civil servants and in some cases State agencies. Generally, a public official or civil servant is prohibited from accepting an inappropriate gift as provided therein (or, if he cannot refuse the gift, he must report and turn in the gift to his supervising agency) and is prohibited from conducting certain acts defined as “corrupt acts.”</p> <p>The Anti-Corruption Law regulations focus on how to prevent corruption (i.e., how the governmental bodies will be structured and functioned to take preventive measures to avoid corruption, the principles and obligations of state authorities as well as individuals to prevent corruption, etc.) while the Penal Code focuses on the applicable criminal punishments.</p> <p>Under the Penal Code and the Anti Corruption Law of 2005, it is a crime to give, receive or broker bribes, and a person will be considered as committing the following crimes if such person meets certain conditions:</p> <p><u>Offering a bribe:</u> Under Article 289 of the Penal Code, a person will be considered as committing the crime of offering bribe if such person gives a bribe with the value of 2 million Vietnamese dong or more; or less than 2 million Vietnamese dong but causing a serious consequence or doing so more than once. Although it is not explicitly mentioned, it is implied (in consideration of Article 279 of the Penal Code and Article 1.3 of the Anti-Corruption Law) that the bribe must be given to someone with power or position in a government or public entity. The Penal Code is not clear on what constitutes “serious consequences.”</p> <p><u>Receiving a bribe:</u> According to Article 279 of the Penal Code, it is a crime if (1) the recipient has power or position and takes advantage thereof; (2) received and accepted a bribe of 2 million Vietnamese dong or more; or less than 2 million Vietnamese dong but causing a serious consequence or having been subject to disciplinary penalty or convicted of certain crimes of the Penal Code; or (3) performed or omitted a performance based on the bribe.</p> <p><u>Facilitating a bribe:</u> One who facilitates bribes can be prosecuted under the Penal Code if it is related to a corrupt act.</p> <p>Sanctions are imposed on specific individuals, but not on companies. Individuals may be imprisoned (life or fixed-term), fined up to five times the value of the bribe and prohibited 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 positions, power to appropriate properties; (iv) taking advantage of positions, power while performing tasks or official duties for an undue benefit; (v) taking advantage of position, power 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 positions, power to cover up law violators for an undue benefit; and (viii) illegally hindering or intervening in examinations, inspections, auditing, 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 UNCAC in Vietnam (“Decision 445”), it appears that the Vietnamese Government is planning “to</p>

		additionally define legal persons as a subject of acts of corruption.”
	<b>Bribery of Foreign Officials</b>	Vietnam does not have any national laws that criminalize the bribery of foreign officials. While the language of the Anti-Corruption Law is silent on bribery of foreign officials, the common approach is to understand foreign bribery to be out-of-scope. The government is working on anti-corruption reforms that will implement UNCAC plans, but it is unclear whether anti-corruption laws will be extended to apply to foreign officials.
	<b>Commercial Bribery</b>	Vietnam does not have any national laws that criminalize bribery in the private sector. Criminal bribery is associated with a person in a position of power within a government entity.
<b>Definitions</b>	<b>Government Employee</b>	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, 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”.
	<b>Gratification (Gifts/ Entertainments/ etc)</b>	<p>Gifts are broadly defined and may include money, property and other material interests. Decision No. 64/2007/QĐ-TTg contains 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 gifts which officials may accept.</p> <p>Unacceptable gifts are those from organizations or individuals who are under the management or involved in activities under the authority of the official, given without reason, or intended for bribery.</p> <p>Acceptable gifts are those with value of less than five hundred thousand Vietnamese dong during certain holidays or under special circumstances.</p>
<b>Current Status</b>	<b>Enforcement Body</b>	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 people caught engaging in corrupt practices: (i) the Ministry of Police and the Ministry of Public Security within the ambit of their respective tasks and powers, have the responsibility to organize and direct the investigation of corruption-related crimes and (ii) the People’s Procuracy and the People’s Courts have the responsibility to organize and direct the prosecution and judgment of corruption-related crimes among others. In addition, the following agencies are also relevant: (i) 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 on 1 February 2013. Its duties include direction, coordination, and inspection and speeding up of anti-corruption activities; and (ii) the Government Inspectorate has the responsibility to organize, direct and guide the inspection of the observance of legal provisions on corruption prevention and combat; in case of detection of corrupt acts, to request competent agencies or organizations to handle them. It is also working jointly with the World Bank on the Vietnam Anti-corruption Initiative Program 2011; and (iii) The State Audit of Vietnam is in charge of organizing the audit in order to prevent, detect and coordinate in handling of corruption. Also, the Government Inspectorate, the Ministry of Public Security and the Supreme People’s Procuracy shall each have a specialized anti-corruption unit in accordance with Article 75 of the Anti-Corruption Law.
	<b>Issues in Enforcement</b>	<ol style="list-style-type: none"> <li>1) Criminal penalties apply to bribes above 2 million Vietnamese dong or below 2 million Vietnamese dong but are committed repeatedly or cause serious consequences.</li> <li>2) Lack of an independent body specialized in fighting corruption; the specialized anti-corruption units are within either the central authority or the local authority and subject to the influence of high ranking officials.</li> <li>3) The judiciary is not sufficiently independent and may be corrupt itself.</li> <li>4) Lack of whistleblower measures and lack of cooperation from the citizens.</li> <li>5) 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.</li> </ol>

	<b>Recent Movement</b>	<p>Two important laws were promulgated namely, the Law on Amendment to the Anti-Corruption Law dated 23 November 2012 and Decree 78/2013/ND-CP dated 17 July 2013 guiding the Anti-Corruption Law (“Amending Regulations”) introducing key changes as to: (i) the publication of information, reports, master plans and policies in a number of sectors including, among others, management of investment projects for construction, management of state-owned enterprises, and agriculture and rural development; (ii) transparency in relation to assets and income of State officials and employees; and (iii) obligations for the heads of the body, organization or unit where the corrupt act is alleged to have occurred as to the persons alleged to have committed the act.</p> <p>Another new regulation to take effect from 1 January 2015 is Circular 04/2014/TT-TTCP which will guide the appraisal and judgment of the anti-corruption level and anti-corruption efficiency at the localities. This Circular mainly applies to State agencies and officials. In general, this circular guides the mechanism for appraising anti-corruption measures carried out in the local level.</p>
<b>Participation in International Anti-corruption Conventions</b>	<b>OECD Convention</b>	No (endorsement of the Action Plan on July 13, 2004))
	<b>UNCAC</b>	<p>Signed Dec. 10, 2003</p> <p>Ratified June 30, 2009</p> <p>(with reservations)</p>
<b>Last Updated</b>		November 10, 2014

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