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# The Legal 500 Country Comparative Guides

## Greece

# BRIBERY & CORRUPTION

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This country-specific Q&A provides an overview of bribery & corruption laws and regulations applicable in Greece.

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## GREECE

# BRIBERY & CORRUPTION



### 1. What is the legal framework (legislation/regulations) governing bribery and corruption in your jurisdiction?

Following continuous amendments of relevant legislation and ratification of all major international instruments against corruption (see below under 19), the main core of anti-corruption legislation is included in the Greek Criminal Code (punishable acts of bribery and corruption) and the Greek Code of Criminal Procedure (operation and powers of special Prosecutor's Office against Financial and Economic Crime). In addition, Law 4557/2018 (AML Regulation) is used to impose sanctions to legal entities involved in acts or corruption, in accordance with national and international legislation. Within the context the above legislation.

### 2. Which authorities have jurisdiction to investigate and prosecute bribery in your jurisdiction?

The core investigation authority is the Prosecutor's Office against Financial and Economic Crime and the Special Body of Investigators for acts of corruption. (Law 4022/2011). The Prosecutor's Office against Financial and Economic Crime consists of 4 Prosecutors with the Court of Appeal, Athens and at least 8 Prosecutors with the First Instance Court (of which 7 serve the Athens First Instance Court and 1 Thessaloniki First Instance Court). The Prosecutor's Office against Financial and Economic Crime may engage other agencies or Authorities to provide assistance in specific fields or investigations which require special knowledge, such as the FECU (Financial and Economic Crime Unit), the Financial Police (special department within the Police) and the Directorate for Investigation of Economic Crime (supervised by the Ministry of Finance). The Prosecutor's Office against Financial and Economic Crime is informed about any complaints or allegations of corruption offences by other enforcement agencies or any other sources. Once informed of such allegations the Prosecutors have the power to decide whether these allegations/complaints fall within the scope of their

function. They also have the power to resolve any doubts or disagreements on jurisdiction over an allegation. The Prosecutor's Office against Financial and Economic Crime is responsible to collect first evidence on possible acts of corruption and then orders an investigation by the Special Investigators Body. The decision to refer cases of corruption to trial is decided following standard procedure – by a Judicial Council (Three Judges having sessions in camera).

### 3. How is bribery defined?

Under Greek Law passive and active bribery are both punishable. Bribery in the public sector (public officials) is an act of giving (or receiving) or promising (or accepting), directly or through third parties or intermediaries, unlawful benefits or gain to a public official for committing or omitting an act in the course of one's duties or against one's duties. The act of the public official maybe concluded or expected to be concluded in the future. Bribery in the private sector is an act of giving (or receiving) unlawful benefits or gain directly or indirectly as an exchange for an action or omission contrary to one's duties (as defined by law, contract, agreement etc.). It is noted that under Greek Law the promise of a benefit, gain etc. constitutes bribery (even before the gain or benefit has been awarded). Gains and benefits are not only cash/cash equivalents but also intangible benefits (e.g. promotion or favourable transfer to a better position). The unlawfulness of such gains/benefits is judged on an ad hoc basis. Generally, a benefit may be considered unlawful if it goes beyond the standards of proper social and/or professional conduct.

### 4. Does the law distinguish between bribery of a public official and bribery of private persons? If so, how is 'public official' defined? Are there different definitions for bribery of a public official and bribery of a private person?

There is a distinction between bribery of public officials

and private persons. Both are punishable under Greek Law. A public official is a person entrusted permanently or temporarily with the exercise of duties directly related to the State or public law entities. According to the Greek Criminal Code "public officials" include employees of state-owned entities (to which the State has all or the majority of shares), municipalities, entities whose administration is appointed by the State (in whole or the majority), members of the judiciary (also arbitrators), members of international and transnational bodies, mayors and/or members of local governments or local parliaments, members of international organizations, members of EU Bodies, individuals that exercise public service for a foreign country. It is noted that all provisions of Directive EU 2017/1371 for the protection of EU's financial interests have been incorporated into Greek Law. Integration includes application of articles 235 (passive bribery) and 236 (active bribery) of the Greek Criminal Code to all EU officials irrespective of the seat of the organization or agency they work. As regards the Private Sector, the Greek Criminal Code provides for punishment of bribery (passive and active) of individuals who are involved in business activities (in any capacity) for actions or omissions contrary to someone's duties as defined by law, contract or the nature of one's position.

## 5. What are the civil consequences of bribery in your jurisdiction?

Civil consequences may arise either from provisions of the Greek Civil Code or the provisions included in the Civil Law Convention on Corruption in 2001 (Law No. 2957/2001). Apart from seeking compensation, entities that have gained unlawful advantage or benefit through acts of bribery may face consequences such as annulment of agreements/contracts and claims for related damages.

## 6. What are the criminal consequences of bribery in your jurisdiction?

Passive Bribery (applicable to individuals): The basic sanction for individuals in respect to passive bribery (the public officials) is imprisonment (maximum five years) and a fine. If the perpetrator is committing such acts by profession, the act is punishable with imprisonment up to 5 years (minimum sentence three years) and a fine. If the act is committed contrary to one's duties, there is provision for a prison sentence up to 10 years and a fine. If such acts (against the official's duties) are committed by profession, the sentence is imprisonment up to 15 years (minimum sentence five years) and a fine. Active Bribery (applicable to individuals): The basic sanction is imprisonment (maximum five years). If the bribed official

acted contrary to his or her duties the perpetration is the act is a felony punishable with imprisonment for up to 8 years (minimum sentence five years) and a fine. All assets and financial gains deriving from the punishable act are seized. Liability of entities: Entities are not prosecuted and may not be held criminally liable. Instead there are provisions for fines and other restrictions as follows: a fine ranging from €50,000 to €10 million; permanent suspension of business activities or temporary suspension of such for a time period of one month to two years; prohibition of specific business activities (eg, establishing new branches) for a time period of one month to two years; permanent or temporary ban (one month to two years) from public tenders or state funding. The fine is always imposed. As regards the rest of the sanctions, the competent Authorities may impose all of them or some of them depending on the degree of liability of the entity, the value of the unlawful gain, the financial status of the entity, damages caused to third parties, prior violations etc. The above sanctions are independent of any other sanctions that may be imposed against the entity from the competent regulatory authorities in other proceedings (e.g. administrative/disciplinary proceedings).

There is also a provision for a minor offence regarding the behaviour of managers or directors of entities who did not exercise due diligence to prevent acts of corruption by employees or individuals under their authority in favour of the entity.

## 7. Does the law place any restrictions on hospitality, travel and entertainment expenses? Are there specific regulations restricting such expenses for foreign public officials?

A comprehensive list of restrictions applicable to all businesses and activities is not in place, so there aren't any general rules in respect of certain expenses or specific threshold rules for such expenses. There are, however, restrictions or prohibitions in certain industries governed by special regulations or restrictions by the Accounting Regulation. In the field of healthcare, for example, specific rules are applicable in relation to these expenses while in other fields (e.g. public works) these are totally prohibited.

## 8. Are political contributions regulated?

Political contributions are governed by Law 3023/2002 (as amended). There are provisions for transparency of contributions, proper registration, publishing complete

financial statements, restrictions in receiving funding, disclosures etc. Violations of these provisions are punishable with fines, suspension of sponsorships and, for certain type of offences, imprisonment for the individuals.

### **9. Are facilitation payments regulated? If not, what is the general approach to such payments?**

Facilitation payments are prohibited. They are considered illegal not only in respect to anti-corruption laws and regulations but also in respect to taxation laws and regulations. These types of payments may not be registered in the books and records of a company, since they are not recognised by law.

### **10. Are there any defences available?**

Under Greek Law it is the prosecuting authorities that collect evidence and prove their case but there is no system of evidence testing. Depending on the phase of the procedure (preliminary inquiry, investigation, preindictment) the prosecuting authorities need to satisfy general standards to enable further process of a case-file (usually the existence of enough evidence to justify further investigation or recommendation to open a formal investigation or recommendation for trial referral). The defendant is entitled to challenge the prosecuting authorities' case even at the earliest stages (during the preliminary inquiry and the investigation) on all points, i.e. points of law and on the merits. In view of this, the defendant is entitled to request from the authorities carrying out specific investigating actions, file documents, request examination of specific witnesses, request expert opinions etc. The investigating procedure (preliminary and official) is always reviewed by a Council of Judges (three judges), which is competent to examine any procedural objections raised by the defendant.

### **11. Are compliance programs a mitigating factor to reduce/eliminate liability for bribery offences in your jurisdiction?**

Although not specifically provided for in the legal framework governing corruption offences, the existence of a proper compliance program may serve as a mitigating factor or even a defence to reduce/eliminate liability. A compliance program may be used to argue and/or prove that there is compliance of the entity to its legal obligations and argue on the degree of liability, which would result to sanctions on the lower side of the above provisions. The effectiveness and adequacy of a

compliance program is always with respect to the special needs and operations of an entity. As a general rule, though, a compliance programme is deemed adequate and effective if it meets the following requirements: Existence of internal rules and guidelines to employees and executives, reviewed regularly so that they are up-to-date with latest legislation and regulation Existence of internal controls and designated compliance officer or compliance department Regular training of employees and executives on industry standards and basic regulation on corruption Following the international industry standards.

### **12. Who may be held liable for bribery? Only individuals, or also corporate entities?**

Liability as a general term may refer to individuals and entities alike. Liability maybe criminal or civil liability. Criminal Liability: Only individuals may be held criminally liable. Under Greek Law, legal entities may not be the subject of criminal proceedings, they can't be prosecuted or criminally convicted. Entities may be included in a criminal trial not as defendants but as third parties liable for damages. In view of the fact that Greece has undertaken obligations to comply with the international conventions and other instruments for combating corruption, there are provisions for liability of entities within the context of criminal proceedings, which take the form of fines and/or administrative penalties. This liability (connected to the criminal proceedings) is independent from other sanctions (civil or administrative). Civil Liability: Individuals and entities may be held liable in the course of civil proceedings. Individuals and entities may also be held liable in the course of independent proceedings conducted by other Regulatory Bodies (e.g. the Capital Market Commission, the Competition Commission, the Central Bank of Greece etc.)

### **13. Has the government published any guidance advising how to comply with anti-corruption and bribery laws in your jurisdiction? If so, what are the elements of an effective corporate compliance program?**

Several enforcement agencies and regulatory bodies have issued over the years guidelines in respect to anticorruption regulation, best practices, signs of irregularity of transactions etc. In addition to the guidelines issued by Regulatory Bodies (e.g. Bank of Greece, Hellenic FIU, Capital Market Commission), business associations in sensitive industries (e.g. healthcare) are proposing guidelines to their members,

recommending best practices, evaluating market statistics, sharing experience from other jurisdictions etc. The effectiveness of a corporate compliance program is always dependent on the special characteristics of a business activity. Generally, a compliance program is effective when: It sets out uniform practices within the entity in relation to communication and interaction with clients, suppliers and third parties. These practices should be reviewed on a regular basis and updated when necessary. It has useful and comprehensive tools to enable identification of red flags or signs of irregularity. It sets out a standard procedure for internal reporting. It is also important to include provisions for regular training of employees on signs of possible misconduct and encourage them to address signs of irregularity using available procedures. As regards the Public Sector and enforcement overview, the newly established National Authority on Transparency is the competent Authority to develop action plans in order to combat corruption on a national level.

#### **14. Does the law provide protection to whistle-blowers?**

There is no set of provisions regarding whistle-blowers protection. There are scattered provisions in various laws mainly offering protection against false prosecution but these provisions can't be viewed as full protection. A minimum of protection standards to cover more areas (e.g. public procurement, financial services, products and markets, protection of the environment, public health, consumer protection, protection of privacy and personal data, and security of network and information systems etc.) will be achieved through implementation of DIRECTIVE (EU) 2019/1937 for the protection of whistle-blowers into Greek Law.

The Greek Code of Criminal Procedure includes some provisions in respect to "witnesses of public interest". These provisions are applicable to individuals that offer substantial information on acts of corruption (of public officials). These individuals become "witnesses of public interest" with an Order issued by the Financial and Economic Crime Prosecutors or the Deputy Prosecutor of the Supreme Court who supervises same Office. In order to achieve the status of a "witness of public interest" one must not have any implication in the reported criminal acts and have no personal interest or benefit from his/her testimony. As a "witness of public interest" one can't be prosecuted for acts of defamation or violations of personal data law and regulations. In addition, there is protection against termination of one's working/professional contract. If the Authorities believe that a "witness of public interest" may be in danger, it is

also provided that he/she can achieve the status of an "anonymous witness" following the procedure set out in the legislation governing organized crime. Other standalone provisions in various laws (e.g. labour law) also provide protection for whistle-blowers.

#### **15. How common are government authority investigations into allegations of bribery?**

Under Greek Law the competent authorities for investigating allegations of bribery, i.e. the prosecuting authorities, are under an obligation to initiate a preliminary inquiry as soon as they are informed on possible misconduct. This information may be a formal complaint, an anonymous tip or even information leaked to the Press. This is also the case for other criminal acts, so opening an investigation into allegations of bribery does not require exercising discretionary power by the authorities (whether to start an investigation or not) but normal progress of the procedure. Given that at least two Authorities are awarded power to investigate exclusively (Prosecutor's Office against Financial and Economic Crime) or primarily (the General Inspector of Public Administration) acts of corruption, it is evident that all relevant allegations are being investigated.

#### **16. What are the recent and emerging trends in investigations and enforcement in your jurisdiction? Has the Covid-19 pandemic had any impact and, if so, what?**

The competent Prosecuting Authorities (namely the Prosecutor's Office against Financial and Economic Crime) have become very active in investigating cases of alleged bribery and have been targeting specific industries and sectors, such as the health industry, public works and financial institutions. Above Prosecutorial Body is assisted by other enforcement agencies as well as individuals with specialized knowledge in various fields (e.g. banking and finance). It is expected that enforcement will become more focused on cases of wider public interest. In recent years many of the anti-corruption investigations have become high profile cases, covered by the media on a daily basis. It is noted that since 2019 the National Authority on Transparency is also active in the field of corruption detection and promotion of best practices in the Public Sector through supervision of all the Public Sector Audit Agencies, i.e. the General Inspector of Public Administration, the Public Tenders Inspectors, the Public Transport Inspectors and Auditors, General Directorate for Transparency), which are now part of the National Authority on Transparency. The Authority is given the power to perform all audits and inspections in all



operations of the Public Sector and issue guidelines, circulars, action-plans and opinions on issues of corruption and transparency. The pandemic has affected temporarily the day-to-day operations of enforcement agencies who had to comply with the government's health policies and measures and conduct of new inquiries or investigation was focused to urgent and very serious cases. Gradual relaxation of public health measures will enable all enforcement agencies to process more volume of work.

### **17. Is there a process of judicial review for challenging government authority action and decisions?**

Depending on the type of procedure (criminal or administrative) and the phase of the investigation, inquiry etc. there are provisions with the Greek Code of Criminal Procedure as well as the Administrative Code of Procedure for judicial review of the authorities' decisions. As regards the criminal investigation of bribery acts, the whole investigation is reviewed at its conclusion by a Judicial Council (on points of law and procedural safeguards). Challenging decision and actions as they happen, however, may not be feasible, due to the fact that the Prosecutors against Financial and Economic Crimes (as well as the Special Investigators for corruption acts) are given extensive powers to seize, confiscate, gain access to privileged information etc. It is provided that all these actions may be challenged with the competent Judicial Council but review is done after these actions/decisions have taken place.

### **18. Are there any planned developments or reforms of bribery and anti-corruption laws in your jurisdiction?**

The core legal framework for corruption offences and related acts (money laundering, tax regulation) has been reformed repeatedly in the last years. The provisions for punishable acts, sanctions, fines and procedure have been amended many times. All provisions have been updated and are now included in the recently adopted and revised Criminal Code and Code of Criminal Procedure.

### **19. To which international anti-corruption conventions is your country party?**

Greece has ratified all major international anti-corruption conventions and has passed legal provisions to conform with them: The UN Convention Against Corruption (Law 3666/2008); the Council of Europe Criminal Law

Convention on Corruption and Additional Protocol (Law 3560/2007); the Council of Europe Civil Law Convention on Corruption (Law 2957/2001); the EU Convention on the Protection of the European Communities' Financial Interests (Law 2803/2000); the EU Convention Against Corruption Involving Officials of the European Communities or Officials of Member States of the European Union (Official Journal C195 of June 25 1997) (Law 2802/2000); and the Organisation for Economic Cooperation and Development Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (Law 2656/1998). In addition to the above, Greece complies with the EU policies against corruption in specific industries (e.g. public works) stipulated by EU Regulations or EU Directives. As of 27/5/2020 Greece has made necessary adjustments to its internal legislation in order to comply with Directive EU 2017/1371 (Law 4689/2020) in respect to the protection of EU financial interests, VAT fraud and bribery of EU officials.

### **20. Do you have a concept of legal privilege in your jurisdiction which applies to lawyer-led investigations? If so, please provide details on the extent of that protection.**

Greek Law recognises the legal privilege and, also, provides for its protection. Lifting the legal privilege by prosecuting authorities is not done through the general provisions for accessing information considered privileged (financial, tax etc) but following different, special procedures. Legal privilege applies to anything the lawyer has known or obtained because of his/her profession. In view of this, information acquired in lawyer-led investigations are, in principle, covered by legal privilege. There is uncertainty though in respect to the procedures to be followed during lawyer-led investigations either independently or within the context of an internal audit. In case of a dispute whether some information is connected to legal privilege, there are provisions for its resolution. These procedures take effect after securing/seizing such information, so it is always important to indicate in relevant correspondence and/or documents that they contain attorney-client privilege.

### **21. How much importance does your government place on tackling bribery and corruption? How do you think your jurisdiction's approach to anti-bribery and corruption compares on an international**

## scale?

Combating corruption is dealt as a standard priority in the government's agenda. The former Offices of the AntiCorruption Prosecutor and the Office of the Prosecutor against Economic Crimes were merged into the Prosecutor's Office against Financial and Economic Crimes in an effort to resolve issues of overlapping jurisdiction and multiple/parallel investigating procedures.) The Public Sector is audited and monitored by a central enforcement agency and there is an update of the rules regarding anti-money laundering policies. In addition, a new set of rules will soon be adopted in respect of whistle-blowers in order to enable exposure of corruption practices. There is also an ongoing effort to enable steady and speedy circulation of information between authorities and agencies (e.g. between tax authorities and Prosecutorial Offices or Regulatory Authorities and enforcement agencies) in order to detect unusual conduct or asset movement.

## 22. Generally how serious are organisations in your country about preventing bribery and corruption?

The consensus is that there is need to have in place and adhere to rules of transparency to prevent and detect possible corruption practices. Most medium/large-sized entities have adjusted to AML and anti-corruption regulation putting in place compliance programmes and training executives and employees. Tax legislation, which provides for stricter rules in bookkeeping, payments and money transfers, combined with changes in AML legislation, also provide useful tools to organisations in their effort to abolish corruption practices. It is noted that certain industries have been more active in promoting best practices guidelines and monitoring of the market, especially those heavily regulated (eg banking institutions) In addition there is an increasing number of organisations that adjust their internal controls and operations so that potential whistleblowers of acts of bribery and corruption may relay important information safely.

## 23. What are the biggest challenges enforcement agencies/regulators face when investigating and prosecuting cases of bribery and corruption in your jurisdiction?

Compliance with international agreements and incorporation of related provisions in Greek Law made available a sufficient toolbox to enforcement agencies to enable effective action against bribery and corruption.

On the other hand, it is quite usual to have more than one procedures running in parallel eg criminal investigations running in parallel with tax audits and regulatory inquiries. In the context of different and – sometimes – incompatible procedures running at the same time, there have been occasions of contradicting enforcement decisions. Although steps have been taken to rationalize the situation, there are still cases where more than one enforcement agencies are involved. This is especially true when businesses/entities are under investigation because there are no general provisions for leniency or settlement, thus an entity may be involved in more than one legal procedure with different type of sanctions.

## 24. What are the biggest challenges businesses face when investigating bribery and corruption issues?

When an investigation on bribery or corruption is done internally, an entity faces many dilemmas in many respects, ie monitoring, reporting, exposing and resolving issues internally or with the authorities. No business has the powers of an investigating authority, thus it is bound by rules concerning privileges, private data protection, labor law restrictions etc. On the other hand, a business will need to consider how to handle information on bribery or corruption, the impact of reporting such information to the authorities and possible sanctions (criminal or civil) in the context of regulatory, investigating, prosecuting procedures.

## 25. What do you consider will be the most significant corruption-related challenges posed to businesses in your jurisdiction over the next 18 months?

Businesses will need to promote further their compliance programs and co-operate in adopting common procedures for combating corruption. Effective compliance programs and effective internal procedures will become increasingly important given that corporate liability (as set out above) is stipulated by numerous legal provisions and the consequences may be complex. Most businesses have made necessary adjustments with regard to compliance programmes and regular training their employees. Their next big challenge will be to adopt effective whistle-blowing internal mechanisms to enable early detection of questionable practices.

## 26. How would you improve the legal framework and process for preventing,

### investigating and prosecuting cases of bribery and corruption?

There is a multitude of legal provisions in respect to procedures and enforcement agencies, which have the power to investigate acts of corruption. Apart of criminal investigations, parallel proceedings may be initiated by Regulatory Bodies or the Tax Authorities. All these proceedings may result to different types of sanctions to individuals or entities, which can't be resolved, settled or terminated as a whole. In this respect, the legal framework for reporting to the authorities by implicated

individuals is somewhat incomplete as it does not contain provisions for inclusion, settlement or suspension of other, parallel proceedings. Most importantly, there are no provisions in respect to entities that would wish to come forward and report acts of corruption to the competent authorities. Apart from the general provisions for mitigating the sanctions to be imposed there is no legal framework for leniency in respect to entities. A standard leniency procedure or procedure for settlement with the authorities would make it easier on the entities to report findings from their internal audits to the authorities.

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