Greece: Bribery & Corruption

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

For a full list of jurisdictional Q&As visit here
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 now 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 Corruption and special Prosecutor’s Office against 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.

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

The core investigation authority is the Anti-Corruption Prosecutor and the Special Body of Investigators for acts of corruption. (Law 4022/2011). The Anti-Corruption Prosecutor was first established in 2011 with Law 4022/2011, which also provides for the Special Body of Investigators. Recently, provisions regarding the Anti-Corruption Prosecutor’s operation and powers have been included in the new Greek Code of Criminal Procedure. The Anti-Corruption Prosecutor may engage other agencies or Authorities to provide assistance in specific fields or investigations which require special knowledge, such as the Hellenic FIU (Financial Intelligence Unit), the FECU (Financial and Economic Crime Unit), the Financial Police (special department within the Police), the General Inspector of Public Administration, the Hellenic Capital Market Commission etc.

The Anti-Corruption Prosecutor 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 not decided by the Anti-Corruption Prosecutor or the Investigators but – following standard procedure – by a Judicial Council (Three Judges having sessions in camera).

3. **How is bribery defined?**

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 favorable 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 by latest legislation (Law 4689/2020) 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.

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 or repeatedly or the gift or benefit is of a high value, the act is a felony 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 are committed by profession or repeatedly or the gift or benefit is of a high value, the prison sentence is up to 15 years and the fine.

Active Bribery (applicable to individuals):

The basic sanction is imprisonment (maximum three years) and a fine. 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 and the damages caused to third parties.

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).

7. **Does the law place any restrictions on hospitality, travel and entertainment expenses? Are there specific regulations restricting such expenses for foreign public**
General restrictions applicable to all businesses and activities are not in place, so these expenses are not totally prohibited and there are no 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 in 2014 and 2017). 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, pre-indictment) 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 be 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
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 anti-corruption 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?**

The Greek Code of Criminal Procedure includes provisions in respect to “witnesses of public interest”. According to these, individuals giving information to the authorities regarding corruption acts may be characterized as “witnesses of public interest” with an order issued by the Deputy Prosecutor of the Supreme Court who supervises the Anti-Corruption Prosecutor’s 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. The provisions are fragmented and not uniform, so they offer protection – especially against false prosecution – but may not be considered as providing full protection. This is expected to change soon through harmonization of Greek Law with DIRECTIVE (EU) 2019/1937 for the protection of 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 (Anti-Corruption Prosecutor) 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 trends in investigations and enforcement in your jurisdiction?**

The competent Prosecuting Authorities (namely the Anti-Corruption Prosecutor Office) 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. Many of these investigations have become high profile cases, covered by the media on a daily basis. In many of these cases members of the Anti-Corruption Prosecutor’s Office have traveled to other jurisdictions to seek assistance by other enforcement agencies in collecting evidence and they have been relying heavily on mutual assistance requests especially for acquiring evidence of money transactions between jurisdictions.

In 2019 the National Authority on Transparency was established. All Public Sector Audit Agencies (the General Inspector of Public Administration, the Public Tenders Inspectors, the Public Transport Inspectors and Auditors, General Directorate for Transparency) 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.

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 safe-guards). Challenging decision and actions as they happen, however, may not be feasible, due to the fact that the Anti-Corruption Prosecutor (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 more than 5 times from 2102 and on, with last amendment of standalone provisions having been introduced in December 2018. All provisions have been updated and are now included in the recently adopted (new and revised) Criminal Code.

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);

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 steadily a priority in the government’s agenda. There is an aggressive approach towards cases of alleged corruption, often combined with excessive use of the legal instruments provided for tracing and recovering assets connected with alleged corruption acts even on thin suspicion. In many cases, there is excessive use of tax auditing and review in trying to link profits or gain with possible corruption acts. In this respect, it is quite usual in practice to have parallel proceedings (criminal investigations, tax audits and criminal tax investigations) as well as total freezing of assets even at the preliminary phases of these investigations.

Greece has ratified all international instruments for combating corruption (see 19). It has established special enforcement agencies to investigate such acts and is consistently exchanging information with other jurisdictions. A set of procedural rules is also in place (partly deviating from the standard criminal investigation procedures) to enable speedy collection of evidence, asset securing and recovery, priority in further processing of corruption cases until referral to trial.

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 whistle-blowers 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 investigation by the Anti-Corruption Prosecutor and full tax-audit by the Tax Authorities under the supervision of the Prosecutor against Economic Crime), which, sometimes, makes overlapping of powers inevitable. Although steps have been taken to rationalize the situation, there are still cases where more than one enforcement agencies are implicated. As a result, there is lack of co-ordination and central monitoring of these efforts so that one set of sanctions is imposed.

This is especially true when businesses/entities are implicated 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 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.

25. **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 from 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 may be imposed independently. In this respect, the legal framework for reporting to the authorities by implicated individuals is somewhat incomplete as it does not contain provisions for 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.