



# Angola - Global bribery offenses guide

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## 1) What is the legal framework governing bribery in Angola?

Bribery in Angola is legally understood as being corruption, as defined in the Law on the Criminal Code (Law n. 38/20, November 11).

## 2) What constitutes a bribe?

In accordance with the Criminal Code, corruption is defined from a passive and active perspective.

From a passive perspective, corruption occurs when a public employee or holder of a political role, within the exercise of its functions, requests or accepts, by themselves or by a third party, patrimonial or not patrimonial advantages or promises, for their own benefit or a third party's benefit, with the intention of acting or omitting to act, against their role's duties.

From an active perspective, corruption occurs when someone, by themselves or by a third party, with their knowledge or ratification, provides or promises to a public employee, holder of a political role or a third party, by their indication or knowledge, patrimonial or not patrimonial advantages or promises with the intention of persuading them to exercise actions or omission of duties related to their role.

## 3) What are the principal offenses under this legal framework?

- Inappropriate advantage acceptance (Article 357)
- Passive Corruption (Article 359)
- Active Corruption (Article 358)
- Illegal business participation (Article 364)
- Influence Peddling (Article 366)
- Corruption within International Trade (Article 461)

## 4) What is the jurisdictional reach of the legal framework?

According to Article 4 of Criminal Code, this law is applicable to acts performed within the Angolan territory, or on board Angolan-registered or flagged ships or aircraft, regardless of the nationality of the agent, except if there is an international convention or treaty to the contrary, either by nationals or foreign citizens.

The Criminal Code is also applicable to acts performed overseas when:

- they are performed against Angolan citizens who usually live in Angola by the time of the performance of the act;
- and the performer is found within the Angolan territory and cannot be extradited.

Article 5 emphasizes that the legal framework is also applicable when performed by Angolan nationals or by Foreign citizens against Angolan nationals, where:

- the performer is found within the Angolan territory;
- the performer is a foreign citizen, found within the Angolan territory and extradition has already been requested, but not accepted;
- the performer is a legal person, or the action was performed against a legal person, with headquarters within the Angolan territory; and
- the performer is any legal person, group or entity in which maintains commercial relations with natural or legal persons, public or private, located in Angola.

## 5) Who may be liable for bribery? (public officials, private individuals, legal entities etc.)

According to Chapter IV of the Criminal Code, public employees, private persons and legal entities can be found liable under the offenses above mentioned.

However, the crimes of corruption in Angola do not occur where related to the private sector. Corruption is verified, however, where there is a relation between a private entity and a public employee or holder of a national or foreign political role.

## 6) Can a parent company be liable for its subsidiary's involvement in bribery?

Yes, in circumstances where the parent company has knowledge or has ratified the action to be performed by its subsidiary.

## 7) Are facilitation payments (i.e. small payments to speed up routine governmental action) considered bribes?

Yes, provided that the circumstance where the facilitation payment satisfies the criteria set within Articles 358-359 and Article 364-366 of the Criminal Code.

## 8) Does the legal framework restrict political and charitable contributions?

The Criminal Code does not restrict political and charitable contributions, provided that such contributions do not have as means the practice or omission of acts by public employees or holder of political roles, contrary to their professional duties.

## 9) Does the legal framework place restrictions on corporate hospitality?

The Criminal Code does not provide place any such restrictions explicitly.

## 10) Are there any defenses for bribery offenses?

There are no specific defenses to charges under the offenses found within this legal framework.

However, the Criminal Code provides a number of exceptions which can be applied by way of reducing or excluding the charges:

- Article 357 (3) excludes the conducts set within article 357 (1) and (2) if such conduct is socially approved or is in accordance with the national use and customs.
- Article 359 (2) provides that if the action or omission is proven to not be against the duties inherent of the functions of the performer and the advantage has not been taken, the last is entitled to receive a penalty of imprisonment until three years or a fine of up to 360 days.
- Article 358 (6) establishes that the perpetrator is excused from punishment whenever they withdraw the promise, refuses the offer of the advantage, or requests its return prior to the commission of the act.

- Article 358 (7) establishes that the penalty is reduced when:
  - the perpetrator has committed the act at the request of the official, directly or through an intermediary;
  - the perpetrator reports the crime within a maximum of 90 days after the act was committed and always before criminal proceedings are initiated;
  - the perpetrator concretely assists in obtaining or producing evidence that is decisive for the identification or capture of others responsible.
- Article 359 (6) establishes that the perpetrator is exempt from punishment whenever they voluntarily repudiate the offer or promise they had accepted, restores the advantage or, in the case of fungible goods, its value, before the fact is committed.
- Article 359 (7) establishes that the penalty is reduced when the official:
  - reports the crime no later than 90 days after the commission of the act and always before criminal proceedings are initiated;
  - concretely assists in obtaining or producing evidence decisive in the identification or capture of other officials.

## 11) What are the key regulatory or enforcement bodies with regard to bribery?

The Public Ministry together with the National Police are the primary and sole bodies entitled to enforce this matter.

## 12) What are the legal consequences of being found guilty of bribery offenses?

- Inappropriate advantage acceptance:
  - In the case of public employee: the law provides a penalty of imprisonment between one year and five years (Article 357 (1)).
  - In the case of those who give the advantage: the law provides a penalty of imprisonment between six months and three years or a fine from 60 to 360 days (Article 357 (2)).
- Passive Corruption:
  - In the case of public employee: the law provides a penalty of imprisonment up to two years or a fine of up to 240 days (Article 359 (1)).
  - In circumstances where it has been provided that the act or omission were not against their duties the law provides a penalty of imprisonment of up to three years or a fine of up to 360 days (Article 359 (2)).
- Active Corruption:
  - In the case of the performer: the law provides a penalty of imprisonment up to two years or a fine of up to 240 days. (Article 358(1)).
  - In circumstances where that the act or omission are against their functions or duties, the law provides a penalty of imprisonment up to three years or a fine up to 360 days. (Article 358 (2)).
- Illegal business participation:
  - In the case of a public employee, the law provides a penalty of imprisonment up to five years (Article 364 (1)).
  - If the crime harms the property interests of the state, the penalty is imprisonment for two to seven years. (Article 364 (3)).
- Influence Peddling:
  - In the case of the performer, the law provides a minimum penalty of imprisonment between one and five years (Article 366(1)).
- Corruption within International Trade:
  - In the case of a public employee, the law provides a penalty of imprisonment between one and five years (Article 461).

## 13) Are deferred prosecution agreements (DPAs) or other similar settlement mechanisms available?

No, corruption crimes in Angola are not capable of being negotiated or settled.

Summary provided by ADCA – Sociedade de Advogados, RL, a member of DLA Piper Africa, a Swiss Verein whose members are comprised of independent law firms in Africa working with DLA Piper.

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