



Burundi - Global bribery offenses guide

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1. What is the legal framework governing bribery in Burundi

The key legislation governing bribery in Burundi is the Anti-Bribery Act 2006. However, in prosecution of bribery, reference is made to provisions found in other pieces of legislation such as the Penal Code 2017.

2. What constitutes a bribe?

There is no single definition of bribe under the Anti-Bribery Act. However, the Penal code highlights different types of conduct that can be classified as bribery. From the different provisions, a bribe can be defined as an advantage of any kind that is proposed, given or received in order to get or to reward an unfair advantage from a person by reason of their position.

3. What are the principal offenses under this legal framework?

Under this legal framework the principal offenses are bribery and related offenses (e.g. influence peddling, money-laundering, subtraction and embezzlement of property, fraudulent management, favoritism, unlawful taking of interest) (chapter 2 of the Penal Code).

The principle bribery offenses include:

- requesting or authorizing a bribe by a person vested with public authority or a servant of the public sector by virtue of their position;
- soliciting or approving a bribe by a person vested with public authority for accomplishing an unfair act;
- soliciting, accepting or forcing any kind of sexual activity in order to do or to abstain from doing an act in their power; and
- soliciting or approving a bribe by a person not vested with public authority.

4. What is the jurisdictional reach of the legal framework?

The anti-bribery court has jurisdiction whenever any act which forms part of the offense of bribery or related offenses defined in the Anti-bribery Act takes place (article 22). Though the jurisdictional reach is not specified, the Burundian authorities take jurisdiction whenever the misconduct occurs in Burundi.

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

- Public servants/officials;

- persons not exercising a public function; and
- foreign public servants, officials of international public organizations and non-governmental organizations and legal persons.

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

A company can be prosecuted for bribery committed by its representatives, those who hold positions of responsibility in the company and those who act on its behalf on the basis of a power of representation, power of control and power of decision-making (Article 64 of the Anti-bribery Act).

Thus, even though the Act does not specifically provide for it, a parent company may be liable for bribery committed by its subsidiary if the conduct was committed on the basis of or in relation to the affiliation between the parent and the subsidiary company.

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

Yes, the Anti-bribery Act includes the act of solicitation or approval, without right, of any kind of advantage in order to perform or abstain from performing an act of a person's function or mandate. (Article 42)

8. Does the legal framework restrict political and charitable contributions?

There is no specific restriction on political or charitable contributions; however, they could be considered bribes if they are performed to any of the prohibited ends described here.

9. Does the legal framework place restrictions on corporate hospitality?

Corporate hospitality has not been provided for under the legal framework, but it could also be considered an offense if it is performed to any of the prohibited ends.

10. Are there any defenses for bribery offenses?

Yes. Except in the case of recidivism in the matter of corruption, a person who reveals the offense to the administrative or judicial authority and identifies other persons involved prior to any prosecution will be free from penalty. (Article 69)

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

The government has set up special institutions for the prevention and overcoming of bribery. These include the Audit Office, the Main Office of Inspection, the Anti-Corruption special squad and the Anti-Corruption Court.

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

Individuals face up to 15 years' imprisonment and/or an unlimited fine on conviction.

Legal persons also face an unlimited fine upon conviction.

Additional penalties may also be imposed on individuals. These penalties include forfeiture, restriction from exercising civil, political and family rights as determined by law and a restriction – for a foreigner – from travelling into Burundian territory for a fixed period of not less than five years.

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

There are no such mechanisms available.

Summary provided by Rubeya & Co-Advocates, a member of DLA Piper Africa, a Swiss Verein whose members are

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