



# Czech Republic - Global bribery offenses guide

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

The Czech Act No. 40/2009 Coll., the Criminal Code, as amended (Criminal Code) and the Act No. 418/2011 Coll., on Criminal Liability of Legal Entities and Proceedings against Them (Corporate Criminal Liability Act), as amended, are the main pieces of Czech legislation governing bribery.

## 2) What constitutes a bribe?

Under the Criminal Code, a bribe shall be understood as an unauthorized advantage consisting in direct asset enrichment or another profit that is to be given to the bribed person or with their consent to another person and to which they are not entitled. (Section 334 Common Provisions of the Criminal Code)

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

- Whoever themselves or through another person accepts a bribe or a promise of a bribe for themselves or for another (Section 331 of the Criminal Code).
- Whoever provides, offers, or promises a bribe for another person (Section 332 of the Criminal Code).
- Whoever requests or accepts a bribe so they will use their influence or influence of another to affect the exercise of powers of a public official, ie indirect bribery (Section 333 of the Criminal Code).

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

General territorial provisions of the Criminal Code and of the Corporate Criminal Liability Act apply.

Regarding individuals, general criminal law jurisdictional principles apply, ie territorial principle and personality principle.

- Territorial principle means that Czech criminal law applies to criminal offenses committed in the territory of the Czech Republic.
- Personality principle means that Czech criminal law applies to Czech citizens no matter where the respective criminal offense has been committed.

Regarding companies, the Corporate Criminal Liability Act applies to corporations that have their registered office in the Czech Republic, have a business or branch in the Czech Republic, carry out activities in the Czech Republic or have assets in the Czech Republic.

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

Private individuals, public officials and the legal entities concerned can be prosecuted for bribery offences under Sections 331 to 333 of Criminal Code.

It is also important to note, that public officials and individuals who seek to benefit from bribery or inflict damage over EUR 180,000 face higher penalties under Corporate Criminal Liability Act.

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

Criminal liability of legal entities, including corporations, is governed by the Corporate Criminal Liability Act.

In general, a parent company cannot be liable for its subsidiary's involvement in bribery, since the parent company and the subsidiary are two separate legal entities.

However, the parent company shall be responsible for training its subsidiaries about the prevention and detection of bribery, and about the bribery consequences, since problems with bribery connected with the subsidiary also cast shadow on the parent company.

In addition, the parent company (ie the controlling entity) should reimburse the controlled entity if there is any damage arising from such control.

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

The Czech Republic prohibits facilitation payments and any gift given with the intent to illegally influence decision-making. Therefore, facilitation payments may be considered a bribe, provided they meet the criteria. Furthermore, facilitation payments may be considered bribes no matter how small the amount.

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

A political or charitable contribution could be considered a bribe if it meets the criteria set out in this note. In relation to civil servants (public officials) the Czech Act. No. 234/2014 Coll., on Civil Service, stipulates that a value limit of gifts or other benefits provided to a civil servant amounts to CZK300 (ie approximately EUR12), however, the Supreme Court adjudicated in its recent jurisprudence that even a gift below this limit may constitute a bribery offense in certain situations.

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

Hospitality expenses are not subject to any quantitative or qualitative restrictions in the Criminal Code, as the Criminal Code makes no express provisions with regard to corporate hospitality and any financial or other advantage.

Under Czech law, there is no expressly stipulated value limit of gifts in terms of corporate hospitality; however, it is customary that corporations set out this limit in their internal guidelines (usually up to CZK500, i.e. approximately EUR20). To show whether a hospitality expense qualifies as bribery, it must be evaluated on a case-by-case basis, taking into consideration all relevant factors.

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

There are no specific statutory defenses to charges under Sections 331 to 333 of the Criminal Code.

In general, confession to a crime is usually an extenuating circumstance, together with cooperation with the investigation with police and other authorities, such as prosecutors and judges.

Furthermore, a legal entity can try to discharge itself from criminal liability if it has implemented all necessary measures that could be reasonably required in order to prevent the crime (the "compliance defense"). However, the view of the courts and the Ministry of Justice remains unclear.

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

Currently, there is no specialized prosecution branch focused on corruption-related crimes, therefore general public prosecutors are responsible for the prosecution of both individuals and corporates.

Nonetheless, a new police branch dedicated to investigating organized and financial crime was created. It is called the National Centre Against Organized Crime and it was created by merging two special police offices: the Anti-Corruption Office and the Office for Fighting Organized Crime.

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

Individuals face up to 12 years' imprisonment, forfeiture of property, monetary penalties, house arrest, community service, prohibition of entry to sporting, cultural and other social events, deportation and prohibition of residence.

The Corporate Criminal Liability Act recognizes a broader scale of sanctions for companies. The Act provides for: forfeiture of property; monetary penalties (up to CZK1,460 billion (approx. EUR56 million)); forfeiture or seizure of assets; prohibition of certain activities; prohibition from taking part in public procurement, punishment by disqualification from participating in public tenders; prohibition from receiving grants or subsidies; and publication of the judgment. If held liable, the company may also be dissolved (in extreme cases).

Companies convicted of bribery offenses may also face debarment from public procurement contracts under the EU Public Procurement Directive.

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

As long as the committed bribery is considered a misdemeanor, there is a possibility of a settlement agreement under the conditions set out by the Criminal Proceeding Code.

The accused transfers money – the amount is determined by the court or state prosecutor – to the court's account or to the state prosecution's account to be used for socially beneficial purposes, etc.

The settlement agreement must be confirmed by the court or by the state prosecutor (at the pre-trial phase). All the mandatory conditions must be satisfied together with the court's or state prosecutor's consideration that the settlement is sufficient with regard to the committed misdemeanor and with regard to the defendant and its property relations.

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